ARIZONA HOUSE OF REPRESENTATIVES
Forty-eighth Legislature - Second Regular Session

MAJORITY CAUCUS CALENDAR

April 15, 2008

BLUE SHEET #3 (concur/refuse)

Bill Number	Short Title	Committee	Date	Action	
Committee on Counties, Municipalities and Military Affairs					
Analyst: Thomas Adkins	**Intern: Mark Kelly**				
SB 1006	professional license extensions; military members				
SPONSOR:	WARING	CMMA	3/18	DP	(6-0-0-4-0)
SB 1169	military family relief; fund; committee				
SPONSOR:	ARZBERGER				
		CMMA	4/8	DP	(8-0-0-2-0)
SB 1180	state land department; sunset continuation				
SPONSOR:	FLAKE	CMMA	4/1	DP	(8-0-0-2-0)
SB 1238	~~adjudication monitoring committee; repeal~~ ~~(Now: adjudication monitoring committee; funding information)~~ (CMMA S/E: outdoor fires; counties)				
SPONSOR:	FLAKE	CMMA	4/8	DPA/SE	(9-0-0-1-0)
SB 1288	~~local stormwater quality programs~~ (Now: local stormwater pollution prevention)				
SPONSOR:	FLAKE	CMMA	4/1	DPA	(7-1-0-2-0)
Committee on Commerce					
Analyst: Diana O'Dell	**Assistant Analyst: Tony DeMarco**				
SB 1125	occupational safety; employee death; penalties				
SPONSOR:	MCCUNE DAVIS	COM	4/2	DPA	(9-0-0-1-0)
SB 1176	~~security guards; technical correction~~ (Now: purchaser dwelling actions; definition)				
SPONSOR:	LEFF	COM	3/26	DP	(7-0-0-3-0)
SB 1258	timeshares; trustee's sales; foreclosures				
SPONSOR:	GRAY C	COM	4/2	DPA	(9-0-0-1-0)
SB 1417	contractor regulation				
SPONSOR:	LEFF	COM	4/2	DPA	(9-0-0-1-0)
Committee on Education (K-12)					
Analyst: Jennifer Anderson	**Intern: Katherine Nikas**				
SB 1031	school facilities board; project management				
SPONSOR:	GRAY L	ED	3/12	DP	(9-0-0-1-0)
SB 1032	school facilities board; omnibus				
SPONSOR:	GRAY L	ED	3/12	DPA	(9-0-0-1-0)

SB 1266	~~schools; postemployment benefits~~ (Now: post employment benefits; schools)				
SPONSOR:	JOHNSON	ED	4/2	DP	(8-0-0-2-0)
SB 1269	JTEDs; report; programs.				
SPONSOR:	O'HALLERAN	ED	3/26	DP	(9-0-0-1-0)
SB 1334	compact; educational opportunity; military children.				
SPONSOR:	BEE	ED	3/26	DP	(6-3-0-1-0)
SB 1336	sexual conduct; minor; school teacher				
SPONSOR:	BEE	ED	3/26	DP	(8-0-0-2-0)
SB 1488	schools; teacher performance pay programs				
SPONSOR:	BEE	ED	4/9	DPA	(10-0-0-0-0)

Committee on Financial Institutions and Insurance
Analyst: Stacy Weltsch **Intern: Kimberlee Heywood**

SB 1086	insurance producers; examinations; applicability				
SPONSOR:	GORMAN	FII	3/31	DP	(9-0-0-1-0)
SB 1285	cease and desist orders; disclosure.				
SPONSOR:	MCCUNE DAVIS	FII	3/31	DP	(9-0-0-1-0)

Committee on Government
Analyst: Michelle Hindman **Intern: Zach Tretton**

SB 1097	GITA; state treasurer's office exemption				
SPONSOR:	BURNS	GOV	4/8	DPA	(4-3-0-1-0)
SB 1137	Arizona pioneers' home; continuation...				
SPONSOR:	HARPER	GOV	4/8	DPA	(5-0-0-3-0)
SB 1279	review committee; Arizona national rankings				
SPONSOR:	HUPPENTHAL	GOV	4/1	DP	(6-1-0-1-0)

Committee on Health
Analyst: Dan Brown **Intern: Matthew Flannery**

SB 1123	homeopathic medical examiners board; continuation				
SPONSOR:	O'HALLERAN	HEALTH	3/26	DP	(7-1-0-2-0)
SB 1287	dental board; omnibus				
SPONSOR:	O'HALLERAN	HEALTH	4/2	DP	(10-0-0-0-0)
SB 1419	cosmetic procedures; lasers; injections; regulation				
SPONSOR:	LEFF	HEALTH	3/26	DP	(7-1-0-2-0)

Committee on Human Services
Analyst: Eden Rolland **Intern: Janice Almond**

SB 1100	~~integrated family court; court orders~~ (Now: CPS services; court order)				
SPONSOR:	LANDRUM TAYLOR	HS	3/27	DP	(6-0-0-4-0)
SB 1219	~~extended school year; technical correction~~ (Now: developmental disability providers)				
SPONSOR:	JOHNSON	HS	4/3	DPA	(7-1-0-2-0)

Committee on Homeland Security and Property Rights
Analyst: René Guillen **Intern: Debra King**

SB 1121	emergency response commission; continuation.				
SPONSOR:	HARPER	HSPR	4/7	DP	(8-0-0-2-0)

Committee on Judiciary
Analyst: Kristine Stoddard **Intern: Adrienne Bowers**

SB 1015	presidential preference election; early voting (JUD S/E: elections; procedures; ballots)				
SPONSOR:	GRAY C	JUD	4/10	DPA/SE	(9-0-0-1-0)
SB 1022	jury fees; technical correction				
SPONSOR:	GRAY C	JUD	4/10	DP	(9-0-0-1-0)
SB 1211	primary election date; conforming changes (JUD S/E: conforming changes; primary election date)				
SPONSOR:	JOHNSON	JUD	4/10	DPA/SE	(8-0-0-2-0)
SB 1332	DNA testing; arrest				
SPONSOR:	GRAY C	JUD	4/10	DPA	(7-1-1-1-0)
SB 1354	accomplice liability				
SPONSOR:	PESQUIERA	JUD	4/3	DP	(8-1-0-1-0)
SB 1405	election laws; county provisions (JUD S/E: equine tripping; violation)				
SPONSOR:	GRAY C	JUD	4/10	DPA/SE	(8-0-0-2-0)
SB 1486	notary public; name change.				
SPONSOR:	AGUIRRE	JUD	3/27	DP	(7-0-0-3-0)

Committee on Natural Resources and Public Safety
Analyst: Ralene Whitmer **Intern: Bethany Slim**

SB 1029	AMA water districts; conflicting versions (NRPS S/E: license renewals; bankers; mortgage brokers)				
SPONSOR:	TIBSHRAENY	NRPS	4/9	DPA/SE	(9-0-0-1-0)
SB 1048	~~DUI abatement council; chairperson~~ ~~(Now: chairperson; DUI abatement council)~~ (NRPS S/E: definition; partial-birth abortion)				
SPONSOR:	GRAY L	NRPS	4/9	DPA/SE	(6-3-0-1-0)
SB 1264	~~mineral inventory; technical correction~~ (Now: public rights-of-way; claims)				
SPONSOR:	JOHNSON	NRPS	4/2	DP	(7-3-0-0-0)
SB 1338	state forester; wildfire suppression funding				
SPONSOR:	FLAKE	NRPS	3/19	DP	(9-0-0-1-0)
SB 1438	~~mine inspector; surplus property~~ (Now: mine inspector; abandoned mines; donations)				
SPONSOR:	FLAKE	NRPS	4/2	DP	(10-0-0-0-0)

Committee on Public Institutions and Retirement
Analyst: Magdalena Jorquez

SB 1030	economic development; conflicting laws; repeal (PIR S/E: PSPRS; medical personnel; service definition)				
SPONSOR:	TIBSHRAENY	PIR	4/7	DPA/SE	(7-0-0-3-0)

Committee on Transportation
Analyst: John Halikowski **Intern: Rick Hovden**

SB 1037	disabled persons; organizations; license plates (TRANS S/E: delinquent juveniles; restitution; parent assistance)				
SPONSOR:	HARPER	TRANS	4/10	DPA/SE	(9-0-0-1-0)
SB 1291	towing companies; release of vehicles				
SPONSOR:	GORMAN	TRANS	4/10	DPA	(6-0-0-4-0)

SB 1431	~~nursing programs; jurisdiction~~ (Now: exemption; nursing assistant programs)				
SPONSOR:	ABOUD	TRANS	4/3	DP	(8-0-1-1-0)
SB 1464	venture trucks; regulation				
SPONSOR:	GOULD	TRANS	4/3	DP	(8-0-0-2-0)
SB 1466	rest area privatization; state highways				
SPONSOR:	GOULD	TRANS	4/3	DP	(9-0-0-1-0)
SB 1468	ADOT continuation; five years				
SPONSOR:	GOULD	TRANS	4/3	DP	(8-1-0-1-0)

Committee on Water and Agriculture
Analyst: Kathi Knox **Assistant Analyst: Liz Dunfee** **Intern: Sarah Cuneo**

SB 1289	flood protection districts; financing				
SPONSOR:	FLAKE	WA	3/27	DP	(7-0-0-3-0)
SB 1297	state telecommunications program; exemption				
SPONSOR:	FLAKE	WA	4/10	DP	(7-0-0-3-0)
SB 1380	drought emergency groundwater transfers				
SPONSOR:	ARZBERGER	WA	3/27	DP	(7-0-0-3-0)

Committee on Ways and Means
Analyst: Kitty Decker **Intern: Leanne Cardwell**

SB 1189	private historic cemeteries; historic preservation				
SPONSOR:	GRAY C	WM	4/7	DP	(7-0-0-3-0)

HOUSE OF REPRESENTATIVES

SB 1006

professional license extensions; military members
Sponsor: Senator Waring

DP Committee on Counties, Municipalities and Military Affairs

X Caucus and COW

House Engrossed

SB 1006 provides an automatic limited extension of various professional and occupational licenses, certificates and registrations (licenses) issued to members of the U.S. military while they are serving on federal active duty.

History

Many occupations and professions (teachers, mortgage brokers, nurses, etc.) are required by statute to have licenses in order practice their respective profession. Statute describes the various regulations and procedures for the issuance of such licenses and designates the agency or board that is the issuing authority. Various fees, application and renewal fees for example, are charged by issuing authorities to obtain a license. Late fees and delinquency fees may be assessed by the issuing authority for late renewals.

Pursuant to A.R.S. Section 32-1332, a licensed or registered funeral director or embalmer who is serving in the U.S. armed forces in a time of war is exempt from the requirement of paying renewal fees for the duration of the war and for six months after the war or for six months after the person's separation from active duty in the armed forces.

Laws 2007, Chapter 291 allowed certified appraisers deployed outside of the United States on active military duty to file a license renewal application within 180 days of returning home from active military duty and exempted such appraisers from any delinquent renewal fee. A license holder may also request to be placed on inactive status.

Provisions

- Prohibits the expiration of a license in specified professions belonging to any member of the Arizona National Guard or U.S. armed forces reserves while the member is serving on federal active duty.
- Extends the licenses in specified professions of members of the U.S. military for 180 days after the member returns from federal active duty.
- Requires the member or the member's legally designated representative to properly notify the license issuing authority of the federal active duty status of the member in order to qualify for the exemption from expiration and access to the 180-day extension.
- Prohibits the expiration of and postpones the commencement of the 180-day extension period of a license held by a member of the U.S. military until the member can perform necessary professional activities if the member is both released from active duty status and suffers from

an injury as a result of active duty service that temporarily prevents the member from being able to perform necessary activities under the license.

- Prohibits the charging of late fees or delinquency fees for licenses renewed during the 180-day extension period.
- Excludes contractor licenses from the provisions of this Act if a person other than the person who is a member of the U.S. military is authorized to renew the license.
- Requires the license of appraisers to be placed in active status for 90 days after the member returns from federal active duty provided that the member or the member's legally designated representative notifies the State Board of Appraisal of the federal active duty status.
- Provides the license extensions to all licenses issued under Title 32 of A.R.S. (Professions and Occupations) as well as those issued to teachers, nursing home administrators, hearing aid dispensers, audiologists and speech-language pathologists.
- Removes the current license expiration and renewal exemptions in statute for funeral directors, embalmers and appraisers.
- Allows a mortgage broker who is a member of the U.S. military and is serving on federal active duty deployment to receive compensation for mortgage transactions.
- Reduces the number of days from 180 to 90 that a returning and reactivated certified or licensed appraiser has to complete mandatory continuing education.
- Specifies that a registered securities salesman who is a member of the U.S. military remains eligible to receive compensation for securities transactions while the salesman is on federal active duty or while temporarily disabled following federal active duty if the salesman's registration is in approved status or in a specially designated inactive status by the Financial Industry Regulatory Authority.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1169

military family relief; fund; committee

Sponsors: Senators Arzberger: Aboud, Garcia, et al.

W/D Committee on Ways and Means

DP Committee on Counties, Municipalities and Military Affairs

X Caucus and COW

House Engrossed

SB 1169 is an emergency measure that expands the pool of eligible applicants to receive benefits from the Military Family Relief Fund (Fund) and allows the Military Family Relief Advisory Committee (Committee) to form a subcommittee.

History

The Fund was established in 2007 and is scheduled to remain active through December 31, 2013. The Fund consists of private donations, grants, bequests and any other monies that may be invested or divested by the state treasurer. All monies earned from investment must be credited to the Fund.

The Committee, consisting of the Director of the Departments of Veteran's Services (Director) or the Director's designee and twelve additional members, was established to determine the appropriate use of monies in the Fund. Aside from the director, the Governor is responsible for appointing remaining members based on recommendations by the Director, by Arizona Army and Air National Guard commanders and by commanders of military bases in this state.

A.R.S. Section 43-1086 places limits on tax credits for donations made to the Fund. For taxable years 2008 through 2012, a credit is allowed for cash contributions made by a taxpayer during the taxable year to the Fund. The amount of the credit is the lowest of the following amounts, as applicable:

- The total amount of contributions to the Fund by the taxpayer during the taxable year.
- $200 of contributions during the taxable year by a taxpayer filing as a single individual or a head of household.
- $400 of contributions during the taxable year by a married couple filing a joint return.
- The taxpayer's tax liability for the taxable year.

A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed on a joint return.

Provisions

- Adds active and retired senior enlisted military personnel to the list of potential appointed members of the Committee.
- Requires the Committee to elect a chairperson from among the appointed members.
- Exempts the Committee from current statutorily prescribed administrative procedures.

- Allows the Committee to establish a subcommittee, consisting of no more than five members of the full Committee, for the following purposes:
  - Approving an immediate emergency grant to an applicant of not more than three thousand dollars.
  - Reviewing, evaluating and making recommendations to the full Committee regarding nonemergency applications for assistance.
- Exempts the subcommittee from statutes regulating executive sessions.
- Allows the subcommittee to meet in executive session without advance notice.
- Allows the Committee to meet in executive session, with advanced notice, to review and evaluate applications or review recommendations of the subcommittee.
- Specifies that applications for financial assistance and all committee consideration and evaluation of the applications are confidential.
- Prohibits a person who has received confidential information while a member, employee or agent of the advisory committee, a subcommittee or the Departments of Veteran's Services from disclosing that information.
- Requires the monies in the Fund to be used to provide financial assistance to family members of deceased, wounded, injured or seriously ill service members or veterans who deployed from a military base in this state or who entered active United States military service from this state, and who claim this state as their home of record, or who were members of the Arizona national guard at the time of deployment.
- Limits those eligible for the fund to:
  - Widows and widowers of military personnel who died in the line of duty in a combat zone or a zone where the person was receiving hazardous duty pay.
  - A spouse or child of a service member or veteran, or the parents of an unmarried service member or veteran, who was wounded or injured or who contracted a serious illness in the line of duty while deployed in a combat zone or in a zone where the person was receiving hazardous duty pay.
- Spouses, children and parents may apply for costs of living, travel and housing expenses.
- Caps payments at a total of $10,000, which is available in monthly installments as long as the person is required to be hospitalized or receiving medical care or rehabilitation services as for the specific injury or illness and the presence or assistance of family members is necessary in order to receive payment.
- Clarifies that donations that qualify for tax credits are subject to the current statutory limits.
- Contains an emergency clause.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1180

state land department; sunset continuation
Sponsor: Senator Flake

DP Committee on Counties, Municipalities and Military Affairs

X Caucus and COW

House Engrossed

SB 1180 continues the State Land Department (Department) until June 30, 2018.

History

The Department was created in 1915 and given management authority over all state trust lands and the natural products derived from the land. Pursuant to A.R.S. Section 37-102, the Department is required to administer all laws relating to lands owned by, belonging to and under the control of the State. The mission of the Department is to manage the trust lands and maximize revenues for the beneficiaries. The Department is also responsible for preparing maps of the State, including military restricted airspace, military training routes and ancillary military facilities maps.

Under state law, each new and existing agency has no more than a ten-year duration, at the end of which the agency is subject to a sunset review. Current law states that the Department terminates July 1, 2008. Pursuant to A.R.S. Section 41-2953, the Joint Legislative Audit Committee assigned the sunset review of the Department to the Senate Natural Resources and Rural Affairs and House of Representatives Counties, Municipalities and Military Affairs Committee of Reference. The Office of the Auditor General (OAG) completed the performance audit.

The Committee of Reference held a public hearing on November 8, 2007 to review the performance audit prepared by the OAG, the Department's response to the sunset factors as required by statute and to receive public testimony. The Committee of Reference recommended that the Department be continued for ten years.

Provisions

- Continues the Department, retroactive to July 1, 2008, until June 30, 2018.
- Repeals the Department on January 1, 2019.
- Contains a purpose statement.

HOUSE OF REPRESENTATIVES

SB 1238

adjudication monitoring committee; funding information
Sponsor: Senator Flake

DPA
S/E Committee on Counties, Municipalities and Military Affairs
X Caucus and COW
House Engrossed

SB 1238 allows the Joint Legislative Adjudication Monitoring Committee to request that the Joint Legislative Budget Committee staff provide information regarding legislative funding for the adjudications.

Summary of the Proposed Strike-Everything Amendment

The proposed strike-everything amendment to SB 1238 expands the authority of counties to adopt and enforce ordinances prohibiting open fires and campfires in designated unincorporated areas when a determination of emergency is issued by the county emergency management officer.

History of the Proposed Strike-Everything Amendment

A.R.S. Section 11-251 establishes 65 legislative and executive powers to the boards of supervisors (BOS) of the 15 counties. Laws 2007, Chapter 52 granted counties the power to adopt ordinances that prohibit open fires and campfires on lands in the unincorporated areas of the county that are private property islands within the boundaries of a national forest or United States Bureau of Land Management (BLM) or state land holdings, if such a prohibition has been declared by the national forest, the BLM or the State Forester.

Provisions of the Proposed Strike-Everything Amendment

- Allows counties to adopt and enforce ordinances prohibiting open fires and campfires on designated lands in unincorporated areas when the county emergency management officer issues a determination of emergency and the BOS deems it necessary to protect public health and safety on those lands.

Amendments

Counties, Municipalities and Military Affairs

- The strike-everything amendment was adopted.

HOUSE OF REPRESENTATIVES

SB 1288

local stormwater pollution prevention

Sponsors: Senators Flake, Rios: Representative Barnes

DPA Committee on Counties, Municipalities and Military Affairs

W/D Committee on Ways and Means

DPA Committee on Environment

X Caucus and COW

House Engrossed

SB 1288 allows certain counties to adopt ordinances and fees related to the implementation of a local stormwater quality program.

History

According to the Environmental Protection Agency (EPA), the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system that use a septic system or do not have a surface discharge, do not need an NPDES permit. However, industrial, municipal and other facilities must obtain permits if their discharges go directly to surface waters. In most cases, the NPDES permit program is administered by authorized states.

In 2002, Arizona, along with 45 other states, was given authorization from EPA to operate the NPDES program at the state level. The Arizona Department of Environmental Quality offers two specific types of permits: individual permits and general permits. An individual permit is tailored for a specific facility based on an individual application. These permits are known as Arizona Pollutant Discharge Elimination System (AZPDES) permits. The permit is then issued for a specified period of time not to exceed 5 years. A general permit is developed and issued to cover multiple facilities within a specific category, industry or area. General permits offer a cost-effective and efficient option for agencies to cover a large number of facilities with elements in common under one permit.

Provisions

- Allows certain counties to adopt ordinances and fees related to the implementation of a local stormwater quality program.
- Allows counties that are required by the Clean Water Act (CWA) to obtain coverage under the NPDES program to do the following:
  - Develop and implement stormwater pollution prevention plans and stormwater management programs.

- Adopt, amend, repeal and implement any ordinances, rules or regulations necessary to comply with the minimum requirements of the CWA, including the imposition and collection of fees.
- Adopt rules, regulations or ordinances regulating the use of lands or rights-of-way owned or leased by the county to implement and enforce its NPDES program.
- Enforce the ordinances, rules or regulations.
- Seek a civil penalty of not more than $2,500 for each violation. Each day of a violation constitutes a separate offense.

- Specifies what may be included in adopted rules, regulations or ordinances.
- Prohibits any ordinance, rule or regulation from being more stringent than or conflict with any requirement of the CWA.
- Requires counties that operate a regulated small municipal separate storm sewer system to:
  - Conduct its pollutant discharge elimination system stormwater management program.
  - Limit the application of any ordinance, rule or regulation in specified ways.
- Prohibits a county from requiring a permit from any person with a NPDES permit regulating the same activity at the same location, except as required by the CWA.
- Prohibits counties from regulating any person or activity that is exempt under a federal license or permit, NPDES M4 permit or AZPDES Permit.
- Requires counties that adopt an ordinance, rule or regulation pursuant to this Act to use current statutorily prescribed definitions.
- Requires fees received by a county to be deposited with the county for use in administering the program or plan.
- Allows a county to designate and authorize an administrative director from the NPDES program to perform enforcement duties.
- Allows certain counties to seek civil penalties, injunctive relief or other equitable relief in addition to other remedies.
- Prohibits counties from receive civil penalties if an interested person, the United States, the state or another political subdivision or agency has received civil penalties or is diligently prosecuting a civil penalty action.
- Defines the term *county*.

Amendments

Counties, Municipalities and Military Affairs

- Requires counties to provide the Secretary of State with a written statement including a summary of a proposed rule, ordinance or other regulation prior to its adoption by the county. Counties must also make this information available to the public at the same time it provides the statement to the Secretary of State.
- Requires the Secretary of State to publish a written statement provided by a county in the next issue of the *Arizona Administrative Register* at no cost to the county.
- Clarifies that counties that adopt ordinances, rules or regulations pursuant to this Act may enforce them, except for the following:
  - Appeals under Section 49-261, Subsection D are required to be filed in the Superior Court.
  - Section 49-262, Subsections F, G, H, I and J do not apply.
  - Any other section of statute prescribed in Section 49-261, 49-262 or 49-263 does not apply.
- Specifies that for the purposes of enforcement, a county's attorney and designated administrative director have the required authority.

- Makes technical and conforming changes.

Environment

- Requires any fees for issuing and administering permits, reviewing plans and conducting inspections not to exceed the reasonable costs to the county.
- Specifies that fees collected pursuant to this act may not be used to fund stormwater infrastructure costs.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1125

occupational safety; employee death; penalties
Sponsor: Senator McCune Davis

DPA Committee on Commerce

X Caucus and COW

House Engrossed

Permits the *estate* of the employee who becomes permanently disabled or deceased to receive the $25,000 additional penalty assessed against the employer for willful or repeat violations of occupational health and safety (OSHA) laws.

History

Every Arizona employer is required to furnish a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm to employees. *Recognized hazard* is defined in statute to mean an unsafe or unhealthful condition or practice recognized as such with respect to the standard of knowledge in the industry. (A.R.S. §23-401) Fines and penalties for willful or repeat violations of OSHA standards or regulations range from a minimum civil penalty of $5,000 to a maximum $70,000 for each violation. Monies are deposited into the State General Fund. (A.R.S. §23-418)

A.R.S. §23-418.01 permits the Industrial Commission of Arizona to assess an *additional* monetary penalty against an employer for willful or repeated violations of OSHA laws. The additional money is paid to the injured employee in addition to monthly workers' compensation benefits when the employee is permanently disabled. In the event of death, the employee's dependents receive the additional money.

Provisions

- Permits the estate of a permanently disabled or deceased employee to receive the $25,000 additional penalty assessed by the ICA against an employer for willful or repeat violations of OSHA laws.

Amendment

Commerce

- Clarifies the monies go to the estate if the employee did not have any dependents.

HOUSE OF REPRESENTATIVES

SB1176
purchaser dwelling actions; definition
Sponsor: Senator Leff

DP Committee on Commerce

X Caucus and COW

House Engrossed

SB1176 modifies the definition of *seller* within the section of law pertaining to purchaser dwelling actions.

History

The statutes pertaining to purchaser dwelling actions, including the procedures in which to resolve any dispute between sellers and purchasers, were first added by Laws 2002, Ch. 281, § 1, and are codified under Title 12, Chapter 8, Article 14 of the Arizona Revised Statutes. A dwelling action, as defined in statute, is any legal action taken by a purchaser against the seller of a dwelling arising out of or related to the design, construction, condition or sale of the dwelling. The provisions within Article 14 pertain solely to the construction of *new* dwellings.

With regard to contested actions, the law requires the courts to award reasonable attorney fees, expert witness fees, and taxable costs. A.R.S. §12-1366 specifies the dispute resolution procedures outlined in the Article do not apply if a contract for the sale of a dwelling or an association's community documents contain commercially reasonable alternative measures to resolve disputes.

A.R.S. §12-552 specifies the time limitations on actions involving development of real property design, engineering and construction of improvements. Subsection A limits the amount of time an action or arbitration may be instituted against a seller to eight years after substantial completion. The limitation can be extended an additional year if the defect occurred in the eighth year or, in the case of a latent defect, was discovered in the eighth year. Pursuant A.R.S. §12-552, Subsection E, the development and improvement to real property is considered substantially complete when it is either: first used by the owner or occupant; first available for use after having been completed according to a contract or agreement; or, upon final inspection, if required by the governmental body which issued the building permit.

A seller, as defined by A.R.S. §12-1361, means any "person, firm, partnership, corporation, association or other organization that is engaged in the business of designing, constructing, or selling dwellings, including a person, firm, partnership, corporation, association or organization licensed [by the Arizona Department of Real Estate, ADRE]."

Provisions

- Modifies the definition of *seller* in the following manner:
  - Removes the inclusion of an ADRE-licensed person, firm, partnership, corporation, association or organization from the definition; and,
  - Expressly excludes real estate brokers and salespersons who provide services in connection with the *resale* of a dwelling within the definition.

HOUSE OF REPRESENTATIVES

SB 1258

timeshares; trustee's sales; foreclosures
Sponsor: Senator Gray C

DPA Committee on Commerce

X Caucus and COW

House Engrossed

Permits the use of a trustee's sale to enforce delinquent assessments against a timeshare estate owner.

History

Title 33, Section 801, Arizona Revised Statutes, defines *trust property* as "legal, equitable, leasehold or other interest in real property which is capable of being transferred, whether subject to any prior mortgages, trust deeds, contracts for conveyance of real property or other liens or encumbrances." A *trustee* may be an individual, association or corporation to whom the *trust property* is conveyed by a trust deed, including a bank, trust company, savings and loan association, credit union, escrow agent, consumer lender, member of the State Bar of Arizona, licensed real estate broker or licensed insurance producer.

A power of sale is conferred upon the trustee after a breach or default in the performance of the contract for which the property is held as security, or a breach or default of the trust deed. The trustee's qualifications, duties and responsibilities are specifically outlined in statute regarding the sale of trust property, including proper content and posting of the notice of sale, requiring a $10,000 bid deposit, and disposition of the sale proceeds.

SB 1258 establishes a similar process for a trustee's sale of timeshare estates to enforce delinquent assessments against a timeshare owner.

Provisions

- Permits the Timeshare Association or other managing entity (Association) to cause a trustee's sale of a timeshare estate when the owner is delinquent in the payment of assessments for one year.

- Requires the Association to prepare, execute and acknowledge a Notice of Delinquency with pertinent information, which may apply to multiple timeshares owned by the same person:
  - Name of owner of timeshare estate.
  - Nature and amount of delinquency.
  - Legal description of the timeshare estate.
  - Name and address of Association.
  - Name and address of trustee to conduct the trustee's sale.

- Directs the Association to record the Notice of Delinquency with the appropriate county recorder and forward a copy by certified mail, return receipt requested, to the last known address of the timeshare owner. Requires the Association to post notice on the bulletin board at the timeshare property.

- Allows the timeshare owner 30 days in which to cure the delinquency.

- Requires notice of the time and place of the trustee's sale to be posted on the timeshare owners' bulletin board, website and newsletter, as applicable.

- Establishes the bid deposit as $1,000.

- Stipulates the disbursement of monetary proceeds of the trustee's sale and clarifies payment of excess proceeds to the trustor. *Trustor* is defined as the specific owner who is delinquent in assessments for a timeshare estate or estates.

- Clarifies trustee's sales may include multiple owners and multiple timeshares as long as each is sold separately.

- Prescribes requirements if a fee title to a timeshare was acquired before July 1, 2008. Requires the Notice of Delinquency to include a statement informing the owner of the right to prevent a trustee's sale. Specifies details and outlines the substantial form of the Notice of Election to Prevent Trustee's Sale. The required information must be returned to the trustee and the Association within 30 days after the Association sends notice to the owner.

- Requires the Association to desist if the owner timely returns the form to prevent the sale of the timeshare that was acquired before January 1, 2009. Failure to return the form waives all rights to prevent the sale.

- Clarifies the remedy provided by the provisions of the bill to permit a trustee's sale does not preclude the Association from using other means to secure a remedy. Stipulates the provisions do not prevent an Association from taking a deed in lieu of foreclosure.

- Excludes the provisions of the bill with regard to timeshare properties that mandate judicial foreclosure as the sole method to foreclose or secure payment of a lien.

- Defines pertinent terms.

Amendment

Commerce

- Makes a conforming date change.

HOUSE OF REPRESENTATIVES

SB 1417
contractor regulation
Sponsor: Senator Leff

DPA Committee on Commerce

X Caucus and COW

House Engrossed

*****REVISED*****

SB 1417 revises complaint procedures and citations issued against licensed contractors, and outlines additional regulatory requirements for remodel and repair contractors.

History

The mission of the Registrar of Contractors (ROC) is *to promote quality construction by Arizona contractors through a licensing and regulatory system designed to protect the health, safety and welfare of the public.*

A.R.S. § 32-1121 lists 15 various exemptions from licensure by the Registrar of Contractors, including government officials, public utilities, architects and engineers. Additionally, statute exempts property owners who perform the work themselves, with their own employees or with duly licensed contractors, if they do not intend to sell or rent their property for one year after they complete all construction or improvements.

A.R.S. § 32-1154 enumerates 24 grounds for suspension or revocation of a contractor's license. The Registrar or any other person may file a written complaint against a licensee, which triggers an ROC investigation and may subsequently result in a temporary license suspension, increased surety bond / cash deposit or permanent revocation of any and all licenses if the licensee is found guilty or commits any of the prohibited acts or omissions. After the investigation, the Registrar may issue a citation, or *upon written request of a complainant,* may issue a citation directing the licensee to appear and show cause why the license should not be suspended or revoked. Failure by the licensee to answer within 10 days after being served the citation is deemed an admission of the charges outlined in the complaint. The Registrar may then suspend or revoke the license.

Provisions

- Provides an exception for an *owner-occupant*, to the current provisions of statute regarding the one-year limitation on the sale or rent of the property.

Complaints and Citations Against a Licensed Construction Contractor

- Authorizes only a party to the construction contract to file a complaint, rather than any person. Defines *construction contract* and *owner.*

- Removes the Registrar's ability to issue a citation at the request of a complainant.

- Prohibits the Registrar from issuing a citation because of a contractor's failure to perform work according to industry standards and local building codes if either: 1) the contractor is not allowed to inspect the work within 15 days after receiving the written notice; 2) the contractor's work has been neglected, modified or used in an abnormal manner.

Standards for General Remodel and Repair Contractors

- Requires the Registrar to suspend the pertinent license for failure to provide workers' compensation as required by law. The Registrar must serve the licensee with a written complaint and notice of formal hearing.

- Mandates suspension of work and prohibits acceptance of new projects for a licensee with 5 or more unresolved and substantiated *abandonment* complaints within a 12-month period. Permits work to resume when the number of complaints is less than 5 in 12 months.

- Based on an investigation, authorizes the Registrar to suspend a license in order to protect the general public's health and safety. Requires the Registrar to serve the licensee with a written notice of complaint and formal hearing as prescribed by law.

Amendment

Commerce

- Permits a person who suffers a material loss or injury due to a contractor's work standard or performance to file a complaint with the ROC.

HOUSE OF REPRESENTATIVES

SB 1031

school facilities board; project management
Sponsor: Senator Gray L

DP Committee on Education (K-12)

DP Committee on Appropriations

X Caucus and COW

House Engrossed

SB 1031 allows the School Facilities Board (SFB) to directly contract with construction project managers for new school construction projects.

History

The SFB was established in 1998 as part of Students FIRST (Fair and Immediate Resources for Students Today) to administer the State's capital facilities plan for school districts. The SFB consists of ten members: nine gubernatorial appointments who serve four year terms and the Superintendent of Public Instruction (or their designee) as a non-voting member. Arizona public school districts receive funding for building renewal and new school construction, while maintaining the ability to raise local funds through limited bonding and capital overrides. Three main funds were established under Students FIRST to be administered by the SFB: the Deficiencies Correction Fund (now repealed), the Building Renewal Fund, and the New School Facilities Fund. Charter schools are not eligible for Students FIRST.

The criteria to determine a school district's eligibility for monies from the New School Facilities (NSF) Fund are based on an annual evaluation and the approval of district enrollment projections and any additional square footage needed to maintain adequacy standards in a district. The SFB reviews and evaluates the enrollment projections and either approves or revises them accordingly. Then, the net new growth of pupils is compared to the building adequacy standards to determine new construction requirements. If the approved projections indicate additional space is needed within the next two years (for elementary schools) or three years (for middle or high schools) in order to meet the building adequacy standards, the SFB must fund the school project according to the statutory formula as outlined in Arizona Revised Statutes § 15-2041.

A school district may use their own project manager for new school construction, but the members of the school district governing board and the project manager must sign an affidavit stating they understand and will follow the minimum adequacy requirements.

Fiscal Impact

According to the fiscal note prepared by the Joint Legislative Budget Committee for a similar bill in 2007 (HB 2242), this bill has no anticipated General Fund impact. A school district's construction project manager costs are already paid by SFB. SB 1031 will allow the SFB to contract with a construction project manager.

Provisions

- Permits the SFB to contract for private services, construction project management services, school building assessments to determine if a building has outlived its useful life, and land acquisition and school site development services.
  - Allows monies from the NSF Fund to pay for the contracts mentioned above, excluding those contracts for private services.
- Clarifies that the SFB may directly contract with construction project managers though a school district may choose to independently contract with a construction project manager.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1032
school facilities board; omnibus
Sponsor: Senator Gray L

DPA Committee on Education (K-12)

X Caucus and COW

House Engrossed

SB 1032 prohibits school districts from reducing pupil square footage without approval from the School Facilities Board (SFB), instructs SFB staff to acknowledge the receipt of a school district's application for emergency deficiency monies, and requires SFB to withhold monies from a school district that fails to submit building data by October 15 of each year.

History

The SFB was established in 1998 as part of Students FIRST (Fair and Immediate Resources for Students Today) to administer the State's capital facilities plan for school districts. The SFB consists of ten members: nine gubernatorial appointments who serve four year terms and the Superintendent of Public Instruction (or their designee) as a non-voting member. Arizona public school districts receive funding for building renewal and new school construction, while maintaining the ability to raise local funds through limited bonding and capital overrides. Three main funds were established under Students FIRST to be administered by the SFB: the Deficiencies Correction Fund (now repealed), the Building Renewal Fund, and the New School Facilities Fund. Charter schools are not eligible for Students FIRST.

Arizona Revised Statutes (A.R.S.) § 15-2031 regulates the Building Renewal Fund. Monies from the Building Renewal Fund are intended to help districts maintain and extend the life of their school facilities and cannot be used for new construction, remodeling interior space for aesthetic reasons, exterior beautification, demolition, or soft capital items. The SFB is required to maintain a database for the purpose of calculating the building renewal formula. The formula considers the age of the building systems, square footage and student capacity while taking into account any renovations made to the buildings. School districts must currently submit a "Renovations Report" by September 1 of each year that contains detailed building data needed by SFB to maintain an accurate database.

By October 15 of each year, a school district must submit a separate "Building Renewal Report" to the SFB which accounts for projects funded at each school with building renewal monies during the previous fiscal year and the amount of building renewal monies remaining at the end of the previous fiscal year. Additionally, the Building Renewal Report must contain a comprehensive three-year plan for the proposed use of building renewal monies. If a school district fails to submit their Building Renewal Report by the deadline, the SFB is required to withhold building renewal monies from that school district until the SFB determines that the school district has complied with the reporting requirements.

The Emergency Deficiencies Fund was established by Laws 2001, Chapter 297. In the event that a school district has a serious need for materials, services, construction, or expenses in excess of the district's adopted budget that signify an emergency, a school district must apply for the Emergency Deficiencies Fund. The school district is required to disclose any insurance or building renewal monies available. Within five business days after receiving a school district's application, the staff of the SFB is required to notify the school district of their recommendation for funding. The SFB must consider the staff's recommendation at their next meeting.

Provisions

- Requires a school district to notify the SFB and receive written approval before taking any action that would reduce pupil square footage. *Current law prohibits an action that would reduce pupil square footage either immediately or within three years without prior authorization from the SFB.*
- Within five business days after receiving an application for emergency deficiencies funding, requires the staff of the SFB to:
  - Recognize, in writing, the receipt of the application and provide a time frame estimating the completion of the emergency deficiencies project.
  - Provide any investigative, study, or informational requirements from the school district that the staff needs to make a funding recommendation to the SFB.
- Changes the submission date, from September 1 to October 15, for school districts to submit their Renovations Report to the SFB.
- Requires SFB to withhold building renewal monies from a school district that fails submit their Renovations Report to the SFB by October 15 of each year.
- Makes technical and conforming changes.

Amendments

Education (K-12)

- Removes the section in the bill regarding the powers and duties of the executive director of the SFB that no longer contains any substantive changes.
- Clarifies that the written acknowledgement SFB staff sends to a school district regarding their emergency funding must contain an estimated timeline to complete the requirements.

HOUSE OF REPRESENTATIVES

SB 1266

postemployment benefits; schools
Sponsor: Senator Johnson

DP Committee on Education (K-12)

DPA Committee on Government

X Caucus and COW

House Engrossed

SB 1266 permits a school district governing board that offers postemployment benefits to establish a fund or trust account to fund postemployment benefits provided to employees and their spouses or dependents.

History

Employees of a school district are eligible to receive benefits from participation in the Arizona State Retirement System (ASRS). Some school districts currently provide other postemployment benefits (OPEB), separate from those offered through ASRS, as part of a compensation package designed to attract and retain qualified employees. According to the Auditor General, OPEB may include healthcare benefits, such as medical, prescription drug, dental, vision, and hearing, which are either provided through or are separate from a defined benefit pension plan. Life insurance, disability, long-term care, and other benefits may qualify, but must be provided separate from a defined benefit pension plan.

The Governmental Accounting Standards Board (GASB) was established to raise governmental accounting standards and develop new and more efficient ways to deal with financial reporting. GASB issued Statements No. 43 and 45 to institute standards for the accounting and financial reporting of OPEB. Since most postemployment benefits are based on pay-as-you-go financing, entities do not recognize the cost of OPEB over the employee's years of service. The new standards adopted by GASB address this issue by requiring financial reporting of current postemployment benefits and any actuarial-based future liability a governmental entity has related to postemployment benefits.

GASB Statement No. 43, implemented in FY 2006-07, applies to school districts that use a trust account through which OPEB assets are accumulated and benefits are paid in accordance with an agreement between the school district, the employee, and the employee's beneficiaries. To qualify, trust contributions must be irrevocable and assets must be dedicated to give benefits and be legally protected from creditors. GASB Statement No. 45, implemented in FY 2007-08, applies to school districts that do not employ a trust account for the management of OPEB and report only their current obligation to participate in the plan.

Provisions

- Allows a school district governing board that offers postemployment benefits to school district employees, or to employee spouses or dependents, to deposit monies used for these benefits into an OPEB fund or trust account, or both.
- Prohibits additional monies from being appropriated by the Legislature to fund postemployment benefits.
- Defines an OPEB fund as a cash-controlled fund.
- Stipulates that monies in an OPEB fund are not subject to reversion, but if the fund is inactive for a period of five years, any remaining monies must revert to the school district's maintenance and operation fund.
- Requires an OPEB trust account to meet all of the following conditions:
  - Contributions deposited into the trust account are irrevocable.
  - The assets in the trust account must be dedicated to providing benefits to the school district retirees and their beneficiaries.
  - The assets in the trust account are legally protected from creditors of the school district or the investment manager.
- Requires an investment manager for an OPEB trust account to be either a qualified investment manager appointed by the school district governing board or the manager of a public agency pool.
- Permits the investment manager for an OPEB trust account to invest and reinvest monies, hold, purchase, sell, assign, transfer and dispose of securities and investments in the same manner as the monies in the Permanent State Trust Land Fund.
- Prohibits more than 30 percent of the monies in an OPEB trust account from being invested in equity securities.
- Authorizes a school district to pay current or prior year postemployment benefit liabilities into the OPEB fund or trust account from any fund from which the school district may pay employee benefits. Such payment is considered an expenditure from the originating school district fund.
- Stipulates that expenditures for administrative and management costs and the payment of benefits may be made from the OPEB fund or trust account.
- Clarifies that postemployment benefits offered pursuant to this act do not include benefits provided by ASRS.
- Makes technical and conforming changes.

Amendments

Government

- Prohibits a school district from offering OPEBs or depositing money into an OPEB fund or trust account on behalf of persons hired by the school district, or current employees who enter into new employment contracts after the effective date of this act.

HOUSE OF REPRESENTATIVES

SB 1269

JTEDs; report; programs.
Sponsors: Senator O'Halleran: Representative Tobin

DP Committee on Education (K-12)

X Caucus and COW

House Engrossed

SB 1269 makes changes to reporting requirements and definitions concerning Joint Technological Education Districts (JTEDs).

History

Laws 1990, Chapter 248, Section 1 allowed school districts to form JTEDs to improve vocational education offerings and serve students more cost-efficiently. In order to form a JTED, interested school districts are required to study the need to establish a joint district and initiate a plan for the establishment and operation of the district, including a proposed budget. The school district governing boards must submit the study and plan to the State Board for Vocational and Technological Education (now the State Board of Education, SBE). If SBE determines that the plan submitted for the JTED has met statutory requirements, the proposal is submitted to the qualified electors of the school district seeking to become a part of the joint district at the next general election. If approved by the voters, the school district becomes operational as part of the JTED on the following July 1. Statute establishes the size of a JTED board as it is developed, depending on the number of participating school districts.

Laws 2006, Chapter 341 made changes to the statutes that govern JTEDs and implemented annual reporting requirements. Beginning January 1, 2007, all courses offered by a JTED must be approved by the Career and Technical Education Division (CTE) of the Arizona Department of Education (ADE) based on the criteria outlined in Arizona Revised Statutes § 15-391. Each JTED is required to submit a report to ADE by December 31 of each year that includes information on the average daily membership of the district and specific details related to the implementation of each course offered by the JTED. The CTE is required to compile and summarize these reports into one report submitted to the Governor, the Legislature and the SBE.

Currently, there are eleven JTED districts in Arizona.

SB 1269 and HB 2231 are identical bills. HB 2231 passed out of the House with a vote of 59-0-1-0 and is currently assigned to the Senate Education K-12 Committee.

Provisions

- Requires JTEDs to submit annual reporting information by JTED programs rather than courses.
- Changes the definition of *completion rate* of a program to apply only to JTED students who are designated as concentrators in that program.

- Changes the definition of *graduation rate* to apply only to those JTED students who have completed a JTED program.
- Applies retroactively beginning July 1, 2008.

HOUSE OF REPRESENTATIVES

SB 1334

compact; educational opportunity; military children.
Sponsor: Senator Bee

DP Committee on Education (K-12)

X Caucus and COW

House Engrossed

SB 1334 establishes the Interstate Compact on Educational Opportunity for Military Children and the Interstate Commission on Educational Opportunity for Military Children (Commission) to address issues of educational transition for children of military families.

History

Currently, more than 200 interstate compacts are in effect across the United States. While there are many types of compacts, they typically fall into three categories: border compacts (alter state boundaries), advisory compacts (establish study committees), and regulatory compacts (create ongoing administrative agencies).

The Interstate Compact on Educational Opportunity for Military Children (Compact) was drafted by The Council of State Governments (CSG). Founded in 1933, CSG is a nonpartisan, nonprofit organization that forecasts social, economic, and political trends on a regional and national basis. Additionally, CSG promotes multi-state and regional cooperative ventures, advocating multi-state problem-solving to maximize resources and competitiveness.

As of March 20, 2008, a bill proposing the establishment of the Compact has been introduced in 19 state legislatures. Of those states, the Compact has been approved by at least one chamber in Alabama, Kansas, Kentucky, Missouri, Oklahoma, and Virginia.

SB 1334 and HB 2720 are identical bills. HB 2720 passed out of the House with a vote of 56-0-4-0 and currently has not been assigned to a Senate standing committee.

Fiscal Impact

According to a fiscal note prepared by CSG, the estimated budget for operation of the Commission is $630,389. This figure was developed from CSG's estimated need for staff and support. The Compact allows the Commission to levy on and collect an annual assessment from each member state. In order for the Compact to take effect, at least 10 states must enact the Compact into law. The fiscal impact to Arizona will be unknown until the Compact takes effect and the Commission establishes the annual assessment for the member states. Additionally, the Compact requires each member state to establish a state council and designate a Compact Commissioner to administer the state's participation in the Compact.

Provisions

The Compact – Applicability

- States that the provisions of the Compact only apply to local education agencies defined by the Compact.
- Specifies that the Compact applies to the children of:
  - Active duty members of the uniformed services.
  - Members or veterans of the uniformed services who are severely injured and either medically discharged or retired. Under these circumstances, the compact only applies for a period of one year following the discharge or retirement.
  - Members of the uniformed services who die on active duty or as a result of injuries sustained during active duty. Under these circumstances, the compact applies for a period of one year following the death.
- Stipulates that the Compact cannot apply to the children of:
  - Inactive members of the National Guard and military reserves.
  - Retired members or veterans of the uniformed services, except for a one year period after a member or veteran was severely injured and either medically discharged or retired.
  - United States Department of Defense (DOD) personnel and other federal agency civilian and contract employees not defined as active duty members.

The Compact – Educational Records, Enrollment, Placement, and Attendance

- Authorizes a person with special power of attorney, concerning the guardianship of a child of a military family, to enroll and otherwise perform all other actions requiring parental participation and consent.
- Prohibits a local education agency from charging local tuition to a child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
- Allows a child placed in the care of a non-custodial parent or other person standing in loco parentis to continue to attend the school where the child was enrolled while residing with the custodial parent.
- Requires a school in the sending state to:
  - Prepare and furnish a complete set of a student's unofficial education records in the event that official records cannot be released to the parent.
  - Furnish official education records to a school in the receiving state within ten days of receiving a request for official records from that school.
- Requires a school in the receiving state to:
  - Enroll and place a student based on their unofficial education records pending validation by official records.
  - Request official education records from the school in the sending state upon the enrollment of a student.
  - Give a student 30 days to obtain any immunizations required by the receiving state.
  - Allow a student to continue enrollment at the grade level equivalent to the grade level of the student's enrollment in the sending state, regardless of the student's age.
  - Honor placement of a student in courses and educational programs based on the student's enrollment or current educational assessments conducted at the school in the sending state. A receiving school has flexibility in waiving course or program prerequisites or other placement requirements and may perform subsequent evaluations to ensure appropriate placement.

- Provide special education services, if necessary, based on a student's current Individualized Education Plan or Section 504 Plan. A receiving school may perform subsequent evaluations to ensure appropriate placement.
- At the discretion of the superintendent, grant additional excused absences to a student whose parent or legal guardian is an active duty member and has been called to duty for, is on leave from, or has immediately returned from a combat deployment zone or combat support posting.

The Compact – Graduation

- Directs a local education agency to waive specific courses required for graduation if the student has successfully completed similar coursework. If the requirements are not waived, the student must be provided with a reasonable justification and an alternative means of acquiring the coursework in order to graduate on time.
- Mandates the acceptance of exit or end-of-course exams required by a sending state, national achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state.
- Asserts that a student who transfers at the beginning or during their senior year, if ineligible to graduate from the receiving state after all alternatives have been considered, must be provided a diploma by the sending state if the student meets the graduation requirements in that state.
- Requires the receiving state to use best efforts to facilitate the on-time graduation of a student if the sending state is not a member of the Compact.

The Compact – State Coordination/State Council

- Specifies that each member state must establish a state council, or use an existing body or board, to provide coordination between government agencies, local education agencies, and military installations concerning participation and compliance with the Compact.
- Instructs the membership of the state council to include:
  - The state's superintendent of education.
  - A superintendent of a school district with a high concentration of military children.
  - One representative from each of the following: a military installation, the state's legislative branch, the state's executive branch, other offices and stakeholder groups as deemed appropriate.
- Directs the state council to appoint a Military Family Education Liaison.
- Requires the governor to appoint a Compact Commissioner who is responsible for the administration and management of the state's participation in the Compact.

The Commission – Establishment

- Creates the Commission consisting of each member state's Compact Commissioner and ex-officio, nonvoting representatives who are members of interested organizations.
- Directs the Commission to establish bylaws and rules which provide for the conditions and procedures under which the Commission will release information and official records.
- Stipulates that the Commission must meet at least once annually.
  - Meetings may be conducted by telecommunication or electronic communication.
  - The public must be notified of all meetings.
  - Meetings are open to the public unless closed by a two-thirds vote of the Commission for specified reasons.

- The Commission must keep minutes on all meetings, but the minutes of a closed meeting are considered sealed unless the Commission votes to release them.

- Provides for the election of Commission officers, including a chairperson, vice-chairperson, and a treasurer. The officers are not entitled to compensation, but may be reimbursed for expenses incurred in performing their duties.
- Requires the Commission to establish an Executive Committee to oversee the day-to-day activities of the administration of the Compact and have the power to act on behalf of the Commission. The Executive Committee is authorized to:
  - Manage the affairs of the Commission.
  - Oversee the internal organization of the Commission and delegate procedures for the creation of rules, operating procedures, and administrative and technical support functions.
  - Plan, implement, and coordinate communication with other state, federal, and local governments.
  - Appoint an Executive Director who will serve as the Secretary of the Commission and may hire and supervise other Commission personnel.

The Commission – Powers and Duties

- States that the Commission must collect standardized data concerning the educational transition of the children of military families.
- Instructs the Commission to create a process by which military officials, education officials, and parents can inform the Commission of alleged violations of the Compact.
- Prescribes the following powers and duties to the Commission:
  - Provide dispute resolution between member states.
  - Enact rules to effect the goals, purposes and obligations of the Compact. A person may file a petition for judicial review of a rule within 30 days of the rule being promulgated. A rule may be rejected by a majority of the member states.
  - Issue, upon request, advisory opinions concerning the meaning or interpretation of the Compact.
  - Enforce compliance with the Compact.
  - Establish and maintain offices located in one or more of the member states.
  - Purchase and maintain insurance bonds.
  - Borrow, accept, hire, or contract for services of personnel.
  - Establish and appoint committees, including the Executive Committee.
  - Elect or appoint officers, attorney, employees, agents or consultants.
  - Accept donations and grants of money, equipment, supplies, materials, and services.
  - Lease, purchase, accept, or dispose of property.
  - Establish a budget, make expenditures, and maintain corporate books and records.
  - Adopt a seal and bylaws.
  - Annually report to the legislatures, governors, judiciary, and state councils of member states.
  - Coordinate education, training, and public awareness regarding the Compact and its implementation.
  - Establish uniform standards for the reporting, collection, and exchange of data and provide for the uniform collection and sharing of information among member states, schools, and military families.
- Specifies that the Commission's Executive Director and any employees are immune from suit and liability.

The Commission – Oversight, Enforcement, and Dispute Resolution

- Assigns the enforcement of the Compact to the executive, legislative, and judicial branches of each member state.
- Directs all courts to take judicial notice of the Compact and its rules in any judicial or administrative proceeding pertaining to the Compact or the powers, responsibilities, or actions of the Commission.
- Entitles the Commission to due process in any judicial proceeding.
- Requires the Commission, upon determination that a member state has defaulted under the Compact, to:
  - Provide written notification to the defaulting state and other member states that includes the nature of the default, the means of curing the default, and any action taken by the Commission.
  - Provide remedial training and technical assistance regarding the default.
  - Terminate the defaulting state, on a majority vote of the member states, if the state fails to correct the default.
- Stipulates that the Commission is exempt from any costs related to a defaulting state unless they have otherwise been agreed on in writing between the Commission and the defaulting state.
- Allows a defaulting state to appeal the action of the Commission upon petition to the United States District Court for the District of Columbia or the federal district of the Commission's principal offices.
- Permits the Commission, upon the majority vote of the member states, to initiate legal action against a member state in default to enforce compliance with the Compact, its rules and bylaws. The prevailing party must be awarded all costs of such litigation.

The Commission – Financing

- Instructs the Commission to pay for the expenses of its establishment, organization and ongoing activities.
- Allows the Commission to levy and collect an annual assessment for each member state to cover the Commission's annual budget.
- Prohibits the Commission from incurring obligations without appropriated funds or pledge the credit of any member state without the authority of the member state.
- Mandates the Commission to keep accurate accounts of receipts and disbursements which are subject to an annual audit. The results of the audit must be included in the Commission's annual report.

The Compact - Membership, Effective Date, and Amendments

- Maintains that any state is eligible to become a member state.
- Becomes effective and binding on the enactment of the Compact by at least 10 states and is binding on any other member state that enacts the Compact into law after its establishment.
- Requires the governors of nonmember states to be invited to participate in all activities of the Commission.
- Permits the Commission to propose amendments to the Compact. Amendments are effective upon the enactment of all member states.

The Compact – Withdrawal and Dissolution

- Outlines the following process for a member state to withdraw from the Compact:

  - Issue written notification to the Commission's Chairperson of the introduction of legislation to withdraw from the Compact. The Commission must notify each member state of a state's intent to withdraw within 60 days of receiving notification.
  - Enact a statute repealing the Compact, effective one year after enactment.
  - Issue written notification of the enactment of a repealing statute to the governor of each member state.
- Asserts that the withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of the withdrawal.
- Dissolves the Compact on the effective date of withdrawal or default of the member state which reduces membership in the Compact to one state.
- Makes the Compact null and void upon its dissolution and requires the business of the Commission to be concluded and any surplus funds to be distributed according to the bylaws.

Miscellaneous

- Contains a purpose clause.
- Contains a severability clause.
- Specifies that the laws of a member state that conflict with the Compact are superseded, but allows the enforcement of laws that are not inconsistent with the Compact.
- Defines the terms *active duty*, *children of military families*, *compact commissioner*, *deployment*, *educational records*, *extracurricular activities*, *interstate commission on educational opportunity for military children*, *local education agency*, *member state*, *military installation*, *nonmember state*, *receiving state*, *rule*, *sending state*, *state*, *student*, *transition*, *uniformed services*, and *veteran*.

HOUSE OF REPRESENTATIVES

SB 1336

sexual conduct; minor; school teacher
Sponsor: Senator Bee

DP Committee on Education (K-12)

DP Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1336 adds teachers, clergymen, and priests to the list of persons for whom sexual conduct with a minor who is at least fifteen years of age is a Class 2 felony.

History

Arizona Revised Statutes (A.R.S.) § 13-1405 states that a person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under the age of 18.

The penalty for sexual conduct with a minor depends on the age of the minor and the offender's relationship to the minor:

- If the minor is under the age of 15, the offense is a Class 2 felony and is punishable as a Dangerous Crime Against Children (DCAC).
- If the minor is at least 15 years old, the offense is a Class 6 felony.
- If the minor is at least 15 years old and the offender is the minor's parent, stepparent, adoptive parent, legal guardian, or foster parent, the offense is a Class 2 felony.

A.R.S. § 15-501 defines a *certificated teacher* as a person who holds a certificate from the State Board of Education to work in a school in this state and who is employed by a school district, under contract, in a position which requires certification. The definition provides an exception for a psychologist or an administrator who devotes less than fifty percent of their time to classroom teaching.

A.R.S. § 15-550 states that a teacher who is convicted of a DCAC, sexual conduct with a minor, or sexual assault against a minor is guilty of unprofessional conduct and instructs the teacher's certification to be revoked immediately upon notification of the conviction by the clerk of the court.

Provisions

- Includes a minor's teacher, clergyman or priest in the list of persons for whom sexual conduct with a minor who is at least 15 years old is a Class 2 felony.
- Defines *teacher* as a certificated teacher defined in statute or any other person who directly provides academic instruction to pupils in any school district, charter school, accommodation school, the Arizona State Schools for the Deaf and the Blind, or a private school in this state.

HOUSE OF REPRESENTATIVES

SB 1488

schools; teacher performance pay programs
Sponsor: Senator Bee

DPA Committee on Education (K-12)

X Caucus and COW

House Engrossed

SB 1488 establishes a Teacher Performance Pay Program (Program) and increases the base level for schools that participate in the Program over a six year period if sufficient monies are specifically appropriated by the Legislature for the Program.

History

Career Ladder programs allow teachers to advance on a "ladder" and receive pay increases by improving their skills or increasing their responsibilities. This program began in 1985 and no new districts have been allowed to enter the program since FY 1994. The current Career Ladder program is limited to 28 school districts. The local school district funds a portion of the program through increases in their Qualifying Tax Rate (QTR) and the balance is funded from the state through an increase in the formula funding "base level" per pupil. Depending on which phase of the program the district is in, they can have their base level funding increased by up to 5.5%. The local portion of the funding is an increase in the QTR of 11 cents for elementary and high school districts and a 22 cent increase for unified districts. Currently all districts participating in the Career Ladder programs are at the top phase.

Article 11, Section 1 of the Arizona Constitution states "The Legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools and universities . . ." Gilbert Public Schools filed suit in Maricopa County Superior Court in 2007 contending that the Career Ladder program is unconstitutional because it does not meet the "general and uniform" requirement.

Provisions

- Specifies the following increases in the base level if sufficient monies are appropriated by the Legislature specifically for the Program:
  - For the first five fiscal years, an additional one percent.
  - For the sixth fiscal year, an additional one-half of one percent.
- Stipulates that each school district and charter school that increases its base level for the Program must budget and allocate monies solely for teacher performance-based pay utilizing a separate portion of the budget on a form prescribed by the Auditor General and the Arizona Department of Education.
- Requires monies allocated from the Program to supplement and not supplant monies allocated to teachers under regular salary and benefit schedules.

- Directs the monies in the Program to be included in a school district's budget balance carryforward for performance pay programs.
- Requires the Program to include the same elements required under the Proposition 301 performance-based compensation system.
- Provides the following for a school district that currently budgets for a Career Ladder Program or an Optional Performance Incentive Program (OPIP):
  - If the school district budgets for the Program, decreases the base level increase used for calculating its budget for Career Ladder or OPIP by the same percentage increase in the base level allowed for the Program in that fiscal year.
  - If the school district does not budget for the Program, decreases the base level used to calculate the adjustment in the QTR by the same percentage increase in the base level allowed for the Program in that fiscal year.
- Instructs the Auditor General to prescribe procedures for complying with the Program in the Uniform System of Financial Records.
- Contains an intent clause.

Amendments

Education (K-12)

- Changes the intent clause to state that the bill allows all school districts that currently participate in Career Ladder or OPIP to decide whether to stay in their current program or to transition into the new Program.
- Prohibits the State Board of Education from approving any additional schools for the Career Ladder program.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1086

insurance producers; examinations; applicability
Sponsor: Senator Gorman

DP Committee on Financial Institutions and Insurance

X Caucus and COW

House Engrossed

SB 1086 changes the time insurance producer license applicants have to pass the examination from 120 days to one year, and repeals the application filing deadline exemption for applicants prior to August 12, 2005.

History

Insurance producer license applicants are required by statute to pass an examination before they may be granted a license by the director of the Department of Insurance. Current statute, modified by Laws 2005, chapter 126, section 3, states that an applicant has 120 days from the date the director receives the individual's license application to pass the examination. This requirement does not apply to applicants who applied for license before the effective date of August 12, 2005.

Provisions

- Changes the time insurance producer license applicants have to pass the examination from 120 days to one year.
- Grants applicants who are called into active military service a period of one and a half years to apply for an insurance producer license.
- Repeals Laws 2005, chapter 126, section 3, removing the application filing deadline exemption for applicants prior to August 12, 2005.

HOUSE OF REPRESENTATIVES

SB 1285

cease and desist orders; disclosure.

Sponsors: Senators McCune Davis, Gorman, Pesquiera, et al

DP Committee on Financial Institutions and Insurance

X Caucus and COW

House Engrossed

SB 1285 requires cease and desist orders related to unlicensed activity to be open to public inspection.

History

The Department of Financial Institutions (DFI) is statutorily charged with licensing, supervising and regulating state chartered financial institutions and enterprises. Current law provides that the superintendent of DFI may issue a cease and desist order or an injunction enjoining a person or enterprise from engaging in an act, practice or transaction that is in violation of A.R.S. Title 6, and mandates that a person or enterprise must be licensed according to the guidelines in statute in order to provide services relating to financial institutions. Any person, enterprise or institution aggrieved by a cease and desist order by the Superintendent may request an administrative hearing or apply to the superior court for an order for relief. The Superintendent may disclose the final decision in connection with the issuance of a cease and desist order.

Provisions

- States that cease and desist orders issued by the superintendent of DFI must be open to public inspection if they are related to unlicensed activity.

HOUSE OF REPRESENTATIVES

SB 1097

GITA; state treasurer's office exemption
Sponsor: Senator Burns

DPA Committee on Government

X Caucus and COW

House Engrossed

SB 1097 exempts the State Treasurer's Office from the Government Information Technology Agency's (GITA) requirements and prohibits GITA employees from accessing the State Treasurer's banking and investment systems.

History

The Government Information Technology Agency (GITA) was established in 1996 under Arizona Revised Statutes (A.R.S.) Title 41, Chapter 32. GITA is responsible for statewide information technology (IT) planning, coordinating and consulting. Their mission is to partner with state agencies and private sector organizations to improve technical and human IT capabilities and delivery of public services for the people of Arizona.

Laws 2007, Chapter 259 established the Statewide Information Security and Privacy Office (SISPO) for the purpose of strategic planning, facilitation and coordination of information technology security in the state. SISPO is responsible for developing, implementing, maintaining and ensuring compliance by each budget unit with a coordinated statewide assurance plan for information security and privacy.

Current statute defines a *budget unit* as a department, commission, board, institution or other agency of the state receiving, expending or disbursing state funds or incurring obligations of the state. The definition excludes universities under the jurisdiction of the Arizona Board of Regents, community college districts, and the legislative and judicial branches of government (A.R.S. § 41-3501).

Provisions

- Modifies the definition of *budget unit* to additionally exclude the State Treasurer's Office.
- Prevents any employee of GITA from direct access to any of the banking or investment systems of the State Treasurer's Office.
- Prohibits any employee of SISPO from direct access to any of the banking or investment systems of the State Treasurer's office.
- Makes technical and conforming changes.

Amendments

Government

- Removes the exclusion of the State Treasurer's Office from the definition of *budget unit*.

- Prevents SISPO from suspending the operation of the banking and investment systems of the State Treasurer's Office.

HOUSE OF REPRESENTATIVES

SB 1137

Arizona pioneers' home; continuation...
Sponsors: Senators Harper & Blendu, Representative Burges, et al

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DPA Committee on Government

X Caucus and COW

House Engrossed

SB 1137 extends the Arizona Pioneers' Home and the Disabled Miners Hospital for ten years.

History

The Arizona Pioneers' Home and the Disabled Miners Hospital (Home) is a long-term care facility established in 1909 by Arizona's Territorial Legislature. The Home is located in Prescott and has allowed the state to honor the men and women who pioneered Arizona by providing a place of refuge for them during their retirement and elder years. In 1929, it was further designated as Arizona's Hospital for Disabled Miners. Since the Home's establishment, 3,027 Arizona pioneers and disabled miners have been admitted. The Home's total capacity is 155 patients and the average population in FY 2006-2007 was 130 patients.

Arizona Revised Statutes § 41-923 provides guidelines for admissions into the Home. A person of good character is eligible for placement in the Home if:

- They have been a citizen or legal resident of the United States for a period of five years prior to his or her application for admission.
- They have been a resident of this state for no less than fifty years.
- They have reached the age of seventy or more years.
- At the time of admission, they are ambulatory, have proper bowel and bladder control and are able to bathe, clothe and feed themselves without assistance.
- At the time of admission, they do not require care in a hospital or in a skilled care or intermediate care nursing home.

On November 15, 2007, the Arizona Senate and House of Representatives Government Committee of Reference (COR) held a public hearing and discussed the sunset review of the Home. The COR heard testimony, but made no recommendations.

The Home is managed by a Superintendent who is appointed by the Governor. The Home's budget is supported by state General Fund appropriations, state trust land funds and donations. According to the Joint Legislative Budget Committee, the Home's FY 2007-2008 budget was $6,319,400 with 115.8 full time employee positions. Additionally, residents who are not disabled miners are required to pay for their care based on their financial situation. In FY 2006-2007, the Home collected $1,056,901 from these residents, which was deposited into the state General Fund.

Provisions

- Continues the Home until July 1, 2018.
- Applies retroactively to July 1, 2008.

Amendments

Government

- Changes the extension of the Home from 10 years (July 1, 2018) to 8 years (July 1, 2016).

HOUSE OF REPRESENTATIVES

SB 1279

review committee; Arizona national rankings
Sponsor: Senator Huppenthal

DP Committee on Government

X Caucus and COW

House Engrossed

SB 1279 establishes the Review Committee on Arizona National Rankings (Committee) to collect, evaluate, and assess existing studies on the overall quality of schools in Arizona and the wages paid to lawful residents of Arizona.

Provisions

- Establishes the Committee.
- Requires each member of the Committee to have expertise or experience on issues pertaining to education, public policy, or economics.
- Describes the Committee membership as follows:
  - 3 persons appointed by the Governor.
  - 3 persons appointed by the President of the Arizona Senate.
  - 3 persons appointed by the Speaker of the Arizona House of Representatives.
- Specifies that:
  - Members serve at the pleasure of the appointing authority.
  - A new Committee chairperson must be elected each calendar year.
  - A majority of members (five members) constitutes a quorum.
  - Committee members are not eligible to receive compensation.
- Stipulates that the Arizona Department of Administration will provide staff support, assistance, and resources to the Committee.
- Directs the Committee to collect, evaluate, and assess existing studies and findings (that are deemed scientifically reliable) on the national rankings of Arizona compared to other states in the following areas:
  - The overall quality of schools in Arizona based on academic productivity, ratings of school quality by parents, and the average salaries of teachers who provide instruction in Arizona school districts.
  - The wages paid to lawful residents of this state based on average weekly wages and the amount of annual percentage increases in average weekly wages.
- Requires the Committee to submit an annual report, on or before December 1 of each year, regarding the Committee's findings.

HOUSE OF REPRESENTATIVES

SB 1123

homeopathic medical examiners board; continuation
Sponsor: Senator O'Halleran

DP Committee on Health

X Caucus and COW

House Engrossed

SB 1123 continues the Board of Homeopathic Medical Examiners (Board) until July 1, 2010.

History

The Board was created by Laws 1980, Chapter 249, § 21. The Board is made up of six members appointed by the Governor, four of which are homeopathic physicians and two are members of the public. Board members serve staggered three year terms and shall not serve more than three consecutive terms. Arizona Revised Statutes (A.R.S.) § 32-2901 defines homeopathy as a system of medicine that employs homeopathic medication in accordance with the principle that a substance that produces symptoms in a healthy person can cure those symptoms in an ill person. Homeopathic medicine includes the following eight therapies: acupuncture, chelation therapy, homeopathy, minor surgery, neuromuscular integration, nutrition, orthomolecular therapy, and pharmaceutical medicine.

The Board is responsible for issuing licenses, conducting all examinations for license applications, holding hearings, and regulating the conduct of those licensed by the Board. The Board may adopt rules, accredit educational institutions in Arizona which grant the degree of doctor of medicine in homeopathy, hire staff, and adopt rules to establish competency or professional review standards for any minor surgical procedure.

A.R.S. § 41-3008.20 terminates the Board on July 1, 2008.

Provisions

- Repeals statute related to termination of the Board.
- Continues the Board until July 1, 2010.
- Contains a purpose clause.
- Includes a retroactivity date of July 1, 2008.

HOUSE OF REPRESENTATIVES

SB 1287

dental board; omnibus

Sponsors: Senator O'Halleran: Representative Stump

DP Committee on Health

X Caucus and COW

House Engrossed

SB 1287 makes a variety of changes to the Board of Dental Examiners' (Board) statutes including provisions related to the regulation of business entities, retired, disabled, or deceased licensees, the definition of unprofessional conduct, and the maintenance of patient records.

History

The Board is comprised of six dentists, two dental hygienists, and three public members. The primary responsibilities of the Board include determining the eligibility of applicants for examination, examining those found eligible, and issuing licenses to those who pass the examination, as well as taking disciplinary action against those in violation of Board statutes. Currently the Board licenses approximately 4,314 dentists, 3,321 dental hygienists, and eight denturists.

According to Arizona Revised Statutes (A.R.S.) § 32-1213, a business entity may not offer dental services unless that entity is registered with the Board and the services it offers are conducted by a licensed dentist. To register, statute requires an applicant to: file an application on the form provided by the Board, file a separate application for each office in Arizona, pay a registration fee for each office, and re-register every year after the date of issuance. The business entity must notify the Board in writing within thirty days after any change in: entity name, address, or telephone number, location of any office, and licensee who is authorized and who is responsible for the dental services offered at a particular office.

Provisions

- Increases the compensation for members of the Board to $250 for each day actually spent in performing necessary work authorized by the Board.
- Requires the Board to issue licenses to those it determines are eligible.
- Strikes the requirement that the Board determine the eligibility of applicants for examination, examine those found to be eligible, and issue licenses to those who pass the examination.
- Specifies that an applicant for licensure must hold a diploma conferring a degree of doctor of dental medicine or doctor of dental surgery.
- Deletes the requirements a candidate must meet if a candidate does not attend a recognized dental school.
- Clarifies that disciplinary action may be invoked for committing or aiding, directly or indirectly, a violation of, or noncompliance with the Board's statutes or rules.
- Defines *business entity*.
- Modifies the definitions of *irregularities in billing* and *unprofessional conduct*.

- Makes technical and conforming changes

Regulation of Business Entities

- Includes the names and addresses of the officers and directors of a business entity to the list of things that must be included on a registration application form filed by a business entity.
- Stipulates that a business entity must pay a fee for each branch office in Arizona.
- Specifies that a registration expires three years after the date the Board issues the registration.
- Requires a business entity to renew a registration by submitting an application for renewal on a triennial basis on a form provided by the Board before the expiration date.
    - Stipulates that an entity that fails to renew the registration before the expiration date is subject to a late fee as prescribed by the Board.
    - Allows the Board to stagger the dates for renewal applications.
- Requires a business entity to notify the Board in writing within thirty days after any change in the officers or directors of the business entity.
- Requires a business entity to establish a written protocol for the secure storage, transfer, and access of the dental records of the business entity's patients, which at a minimum must include procedures for:
    - Notifying patients of the future locations of their records if the business entity terminates or sells the practice.
    - Disposing of unclaimed dental records.
    - The timely response to requests by patients for copies of their records.
- States that a business entity is required to notify the Board within thirty days after the dissolution of any registered business entity or the closing or relocation of any facility and must disclose to the Board the manner by which the entity's patients may obtain their records.
- Allows the Board to carry out the following disciplinary actions if a business entity violates the Board's statutes:
    - Enter a decree of censure.
    - Issue an order prescribing a period and terms of probation that are best adapted to protect the public welfare and that may include a requirement for restitution to a patient.
    - Issue a letter of concern if a business entity's actions may cause the Board to take disciplinary action.
- Exempts the following entities from requirements related to business entities:
    - Sole proprietorships or partnerships that consist exclusively of persons licensed by the Board.
    - Professional corporations or professional limited liability companies if the shares are exclusively owned by persons licensed by the Board.
    - Facilities regulated by the federal government or a state, district, or territory of the United States.
    - Administrators or executors of the estate of a deceased dentist or a person who is legally authorized to act for a dentist who has been adjudicated to be mentally incompetent, for not more than one year after the Board receives notice of the dentist's death or incapacitation.
- Exempts from restrictions on licensees interfering with business entity policies, and on business entities interfering with the professional judgment of a licensee, issues relating to insurance coding and billing that require the name, signature, and license number of the dentist providing treatment.

- Requires the Board to adopt rules that provide a method for the Board to receive assistance and advice from licensed business entities in all matters relating to the regulation of business entities.
- Exempts from civil liability a licensee or registered business entity that makes a report of unprofessional conduct or unethical conduct in good faith.
- Allows the Board to take disciplinary action against a licensed business entity for unethical conduct.
    - Includes a definition of unethical conduct.

Retired, Disabled, or Deceased Licensees

- Exempts retired or disabled licensees from paying a triennial license renewal fee.
- Requires a disabled or retired licensed dentist to submit a passport sized photograph on or before June 30th of every third year to the Board.
- Allows a licensee who is over sixty-five years of age and who is fully retired, and a licensee who is permanently disabled, to contribute services to a recognized charitable institution for a reduced renewal fee as prescribed by the Board.
- Requires a licensee applying for retired or disabled status to relinquish any prescribing privileges and provide evidence of surrendering any registrations or permits to prescribe or dispense drugs.
- Stipulates that an administrator or executor of the estate of a deceased dentist, or a person who is legally authorized to act for a dentist who has been adjudicated to be mentally incompetent, must notify the Board within sixty days after the dentist's death or incapacitation.
- Permits the administrator or executor of the estate of a deceased dentist to employ a licensed dentist for a period not to exceed one year to continue the dental practice or conclude the affairs of the deceased or incapacitated dentist, including the sale of any assets.
- Requires an administrator or executor operating a practice for more than one year to register as a business entity.

Maintenance of Records

- Requires a patient's dentist, dental hygienist, denturist, or a registered business entity to transfer copies of that patient's records to another licensee or certificate holder or that patient within fifteen days of a patient's written request.
- Stipulates that the Board must by rule prescribe the reasonable costs of reproduction of patient records.
- Allows a dentist, dental hygienist, denturist, or registered business entity to require that payment of reproduction costs be made in advance, unless the records are necessary for continuity of care.
- Prohibits copies of patient records from being withheld due to an unpaid balance for dental services.
- Requires a registered business entity to retain a copy of a patient's records for a specified length of time.

Regulation of Denturists

- Requires an applicant for certification to pass a board approved examination.
- Eliminates requirements related to how examinations shall be conducted and how examination records shall be maintained.
- Repeals statutes related to the accreditation of schools issuing degrees in denture technology.

HOUSE OF REPRESENTATIVES

SB 1419

cosmetic procedures; lasers; injections; regulation
Sponsor: Senator Leff

DP Committee on Health

W/D Committee on Commerce

X Caucus and COW

House Engrossed

SB 1419 establishes regulatory requirements for aestheticians and laser technicians who wish to perform cosmetic laser procedures and procedures using IPL devices.

History

Pursuant to Arizona Revised Statutes (A.R.S.) §§ 32-504 and 32-510 the Board of Cosmetology (Board) is required to adopt safety standards for the practice of aesthetics and issue licenses to qualified applicants who wish to be aestheticians. According to A.R.S. § 32-501, an *aesthetician* means a person who is licensed to practice skin care and *aesthetics* means any of a number of practices performed for cosmetic purposes, including removing superfluous hair by means other than electrolysis.

A.R.S. §§ 30-652 and 30-654 establishes the Radiation Regulatory Agency (Agency) to, among other things:

- Regulate the use of sources of radiation.
- Adopt uniform radiation protection and radiation dose standards.
- Adopt rules for personnel monitoring under the close supervision of technically competent people in order to determine compliance with safety rules.

A.R.S. § 30-651 defines *radiation* as including any electromagnetic radiation which may be produced by the operation of an electronic product.

According to the Arizona Administrative Code rule 12-1-1438, a person who seeks to perform hair removal or other cosmetic procedures shall apply for registration of any medical laser or IPL device with the Agency. It further requires a registrant to not permit an individual to use a medical laser or IPL device for hair removal or other cosmetic procedures unless the individual has: completed forty hours of didactic training, is directly supervised for at least twenty-four hours on the job, and performs or assists in at least ten procedures while under the direct supervision of a licensed practitioner.

SB 1419 defines a *laser* as any device that can produce or amplify electromagnetic radiation with wavelengths in a certain range, and is certified in accordance with Agency standards for cosmetic procedures. The bill defines an *IPL device* as an intense pulse light class II surgical device certified in accordance with Agency standards for cosmetic procedures.

Provisions

Certification and Regulation of Aestheticians

- Requires an aesthetician who wishes to perform cosmetic laser procedures and procedures using IPL devices to do the following:
    - Apply for and receive a certificate from the Agency.
    - Comply with statutory requirements and Agency rules.
    - Successfully complete forty hours of didactic training at an Agency-certified training program.
    - Complete hands-on training for hair removal that is supervised by a health professional who is acting within the health professional's scope of practice, or by a laser technician who has a minimum of 100 hours of hands-on experience per procedure.
    - Complete a minimum of an additional twenty-four hours of hands-on training for other cosmetic laser and IPL device procedures of at least ten cosmetic procedures for each type of specific procedure that is supervised by a health professional who is acting within the health professional's scope of practice, or by a laser technician who has a minimum of one hundred hours of hands-on experience per procedure.
    - Submit to the Agency the provisional certificate from the training program and certification from the health professional or laser technician who directly supervised the applicant.
- Specifies that Agency-certified training programs must provide a provisional certificate to applicants verifying the successful completion of didactic training.
- Stipulates that health professionals and laser technicians who supervise hands-on training of aestheticians must be present in the room during twenty-four hours of actual hands-on use of lasers or IPL devices, and must verify that the aesthetician has completed the required training.
- Requires the Agency to issue a laser technician certificate authorizing an aesthetician to use lasers and IPL devices if the applicant has completed the required training.
- Indicates the Agency shall maintain a current register of laser technicians in good standing, including what procedures they are certified to perform.
- Allows the Agency to establish a fee for the registration of aestheticians as laser technicians and the issuance of certificates, and requires the deposit of fees collected in the Laser Safety Fund.
- Permits an aesthetician who has been certified as a laser technician to use a laser or IPL device for the following purposes:
    - Hair removal under the indirect supervision of a health professional whose scope of practice permits the supervision.
    - Cosmetic purposes other than hair removal if the aesthetician is directly supervised by a health professional whose scope of practice permits the supervision and the aesthetician has been certified in those procedures.
- Requires the Board to investigate any complaint from the public or another board or agency regarding a licensed aesthetician who performs cosmetic laser procedures or procedures using IPL devices, and report to the Agency any complaint it receives about the training or performance of an aesthetician who is certified as a laser technician.
- Allows aestheticians who have been using laser and IPL devices prior to the effective date of this bill to continue doing so if the aesthetician applies for and receives a certificate within one year of the effective date.

Requirements of Health Professionals

- Permits a health professional to register, operate, and use a laser or IPL device registered with the Agency or administer drugs or devices for cosmetic purposes to the extent the use is allowed by the health professional's scope of practice and the health professional has completed any training required by the health professional's regulatory board and the Agency.
- Allows a health professional to supervise another health professional in the use of a laser or IPL device for cosmetic purposes to the extent the supervision is allowed or required by the supervising health professional's scope of practice and the supervising health professional has completed any training required by the supervising health professional's regulatory board and the Agency.
- Requires the health professional's regulatory board to investigate any complaint from the public or another board or agency involving the training, education, supervision, or use of a laser or IPL device.
- Stipulates a health professional must report to the Agency any complaint received about the training or performance of a laser technician.
- Permits a health professional to supervise a laser technician in the use of a laser or IPL device for cosmetic purposes if the health professional meets the following requirements:
    - The health professional is a licensed allopathic or osteopathic physician, a physician assistant, or a nurse, and the supervision is within the health professional's scope of practice.
    - The supervision does not conflict with certain statutory requirements.
    - The laser technician has been certified by the Agency to use a laser or IPL device for hair removal or other cosmetic procedures.

Certification and Regulation of Laser Technicians

- Requires a laser technician who wishes to perform cosmetic laser procedures and procedures using IPL devices to do the following:
    - Successfully complete forty hours of didactic training at an Agency-certified training program.
    - Complete hands-on training for hair removal that is supervised by a health professional who is acting within the health professional's scope of practice, or by a laser technician who has a minimum of 100 hours of hands-on experience per procedure.
    - Complete a minimum of an additional twenty-four hours of hands-on training for other cosmetic laser and IPL device procedures of at least ten cosmetic procedures for each type of specific procedure that is supervised by a health professional who is acting within the health professional's scope of practice, or by a laser technician who has a minimum of one hundred hours of hands-on experience per procedure.
    - Submit to the Agency the provisional certificate from the training program and certification from the health professional or laser technician who directly supervised the applicant.
- Specifies that Agency-certified training programs must provide a provisional certificate to applicants verifying the successful completion of didactic training.
- Stipulates that health professionals and laser technicians who supervise hands-on training of laser technicians must be present in the room during twenty-four hours of actual hands-on

use of lasers or IPL devices, and must verify that the laser technician has completed the required training.

- Requires the Agency to issue a laser technician certificate authorizing the use of lasers and IPL devices for the procedures for which the applicant has completed the required training.
- Indicates the Agency shall maintain a current register of laser technicians in good standing, including what procedures they are certified to perform.
- Allows the Agency to establish a fee for the registration of laser technicians and the issuance of certificates.
- Permits a laser technician to use a laser or IPL device for the following purposes:
    - Hair removal under the indirect supervision of a health professional whose scope of practice permits the supervision.
    - Cosmetic purposes other than hair removal if the aesthetician is directly supervised by a health professional whose scope of practice permits the supervision.

Miscellaneous

- Stipulates that a supervising health professional, an employer of a laser technician, and a registrant who owns or operates a laser or IPL device are subject to disciplinary action by the appropriate regulatory board for any errors made by a laser technician or for the prohibited use of a laser or IPL device.
- Requires a person who employs a person who operates a laser or IPL device to report any misuse of a laser or IPL device to the operator's regulatory board and to the Agency.
- Directs the Agency to investigate any complaint from a member of the public or another board or agency involving the training, education, practice, or complaint of harm resulting from a laser technician performing procedures for cosmetic purposes, and specifies the Agency must take appropriate disciplinary action as necessary, including revocation of a laser technician's certification or revocation of a registrant's or employer's license to own or operate a laser or IPL device.
- Creates the Laser Safety Fund to consist of fees collected by the Agency relating to the regulation of the use of lasers and IPL devices.
- Stipulates that the Agency shall administer the Laser Safety Fund, and that monies in the fund are continuously appropriated.
- Includes definitions for *administer*, *agency*, *aesthetician*, *cosmetic purpose*, *directly supervised*, *electrical appliances*, *health professional*, *indirect supervision*, *IPL device*, *laser*, *laser technician*, and *registrant*.
- Makes conforming changes.

HOUSE OF REPRESENTATIVES

SB 1100

CPS services; court order
Sponsors: Senators Landrum Taylor, O'Halleran, Rios, et al

DP Committee on Human Services

X Caucus and COW

House Engrossed

SB 1100 revises language allowing the court to request services from the Division of Child and Family Services when there is reason to believe a child may be the victim of abuse or neglect.

History

The Division of Child, Family and Youth Services (DCYF) is a division within the Department of Economic Security (DES) and is responsible for providing services to children and families. These include child protective services, family support and prevention services, foster and kinship care, adoption promotion and support services, child welfare services and health services (www.azdes.gov).

Child Protective Services (CPS) accepts, screens and assesses reports of child abuse or neglect. When an incident of child abuse or neglect is reported, CPS is required to conduct an investigation and evaluate whether conditions created by the parent, guardian or custodian support or refute the allegation that the child should be adjudicated dependent (A.R.S. §8-802).

Abuse is defined as the infliction or allowing of physical injury, impairment of bodily function, disfigurement or serious emotional damage evidenced by severe anxiety, depression, withdrawal or exceptionally aggressive behavior. *Abuse* includes sexual abuse, as defined in statute, and physical injury resulting from criminal harm committed against a child.

Neglect means the inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care, which causes a substantial risk of harm to the child's health or welfare (A.R.S. §8-201).

Currently, the court is not allowed to order services from DCYF at a domestic relations hearing unless the court believes the child may be a victim of abuse or neglect (A.R.S. §25-403.03).

Provisions

- Eliminates current language prohibiting the court from ordering services unless it believes the child may be a victim of abuse or neglect, and instead allows the court to request or order services from the Division of Children and Family Services if the court believes child abuse or neglect may occur.

HOUSE OF REPRESENTATIVES

SB 1219
developmental disability providers
Sponsor: Senator Johnson

DPA Committee on Human Services

X Caucus and COW

House Engrossed

SB 1219 prescribes notification and disclosure requirements and establishes procedures for the Division of Developmental Disabilities and developmental disability service providers. SB 1219 also requires contract amendments to be included in the review of reimbursement rates for developmental disability providers.

History

The Division of Developmental Disabilities (DDD) is administered by the Arizona Department of Economic Security (DES) and provides services to individuals with developmental disabilities and their families, including home-based and community-based services and residential programs. An individual who has a severe, chronic disability that is attributable to cognitive disability, cerebral palsy, epilepsy or autism that was manifested before the age of eighteen and that results in substantial functional limitations may be eligible for DDD services. A client's needs are determined through assessments and evaluations, and DDD provides or contracts with individuals and agencies to offer services. Services may include attendant care, day treatment and training, employment support services, habilitation and in-home services. Providers are qualified through the Qualified Vendor Agreement, which is a contract between DDD and the provider.

Current statute requires DDD to disclose to a service provider in the individual program plan any historical and behavioral information necessary to anticipate the client's future behaviors and needs. An individual program plan is a written statement of the services to be provided to a person with developmental disabilities, including habilitation goals and objectives. The individual program plan is developed following initial placement evaluation and revised after periodic evaluations (A.R.S. §36-551).

DES is required to contract with an independent consulting firm for an annual study of the adequacy and appropriateness of Arizona Health Care Cost Containment System (AHCCCS) reimbursement rates to service providers for the developmentally disabled program of both the Arizona Long Term Care System and the state only program. The independent consulting firm is required to include a recommendation for annual inflationary costs in the study results (A.R.S. §36-2959).

Provisions

- Requires an independent consulting firm to include costs resulting from contract amendments in its recommendation for annual inflationary costs, unless the contracts were modified in response to federal or state law.

- Requires DDD to disclose to a service provider historical and behavioral information in all meetings in response to a vendor call, as well as in the individual program plan.

- Specifies that historical and behavioral information includes summary information from the program review committee, unusual incident reports reviewed by the human rights committee and behavioral health treatment plans.

- Requires DDD to redact a client's identification from this information.

- Requires DES to adopt rules that allow service providers to do the following:
  1. Administer medications, including assisting a client with self-administration of medications.
  2. Log, store, remove and dispose of medications.
  3. Maintain medications and protocols for direct care as approved in the client's individual service plan.

- Requires a residential treatment provider to notify DDD within twenty-four hours when one of the following emergency situations exists:
  1. The health or safety of the client or other clients is endangered.
  2. The service provider meets the health needs of a client discharged from an inpatient facility.
  3. The service provider requires temporary additional staff to provide appropriate care for a client.

- Requires DES, upon notification of an emergency situation, to:
  1. Hold an individual service plan meeting within fifteen days after notification in order to authorize necessary changes.
  2. Resolve the situation within thirty days after notification.

Amendments

Human Services:

- Authorizes service providers to engage in activities involving administering, logging, storing, removing, disposing or maintaining a client's medications in accordance with the client's individual program plan.
- Allows, rather than requires, DES to adopt rules relating to a service provider's handling of medications.
- Makes a technical correction by clarifying that an emergency situation is one in which the service provider is *unable*, rather that *able*, to meet the health needs of a client.

HOUSE OF REPRESENTATIVES

SB 1121

emergency response commission; continuation.
Sponsor: Senator Harper

DP Committee on Homeland Security & Property Rights

X Caucus and COW

House Engrossed

SB 1121 continues the Arizona Emergency Response Commission (AZSERC) for ten years.

History

Laws 1988, Ch. 292, established AZSERC, which serves to implement the federal Emergency Planning and Community Right to Know Act (EPCRA). EPCRA contains provisions relating to; emergency planning, emergency release notification, hazardous chemical storage reporting requirements, and toxic chemical release inventories. In addition, AZSERC oversees 15 Local Emergency Planning Committees and awards grants to local governments.

Currently, AZSERC consists of the directors, or their designees, of the Division of Emergency Management, the Department of Environmental Quality, the Department of Health Services, the Department of Public Safety and the Department of Transportation. In addition, AZSERC is assisted by a 12-member Advisory Committee.

Under A.R.S. § 41-3008.08 AZSERC is scheduled to terminate on July 1, 2008.

Provisions

- Extends the termination date of AZSERC to July 1, 2018.
- Repeals AZSERC on January 1, 2019.
- Contains a *purpose* section.
- Contains a *retroactivity* clause that makes these provisions effective on July 1, 2008.

HOUSE OF REPRESENTATIVES

SB 1015

presidential preference election; early voting
Sponsor: Senator Gray C

DPA
S/E Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1015 is an emergency measure which changes balloting procedures for presidential preference elections.

Summary of the proposed strike-everything amendment to SB 1015

History

According to A.R.S. § 16-544, the county recorder of each county maintains a permanent early voting list as part of the voter registration roll. Voters on the permanent early voting list are automatically mailed early ballots no later than the first day of early voting for any election at which they are eligible to vote. In order to be added or removed from the permanent early voting list, the voter must send his or her name, date of birth, signature and residence address (and, for addition to the list, mailing address in the county of residence) in writing to the county recorder. If the voter is an absent uniformed services voter or an overseas voter, the voter may submit a mailing address that is outside of the voter's county of residence.

A.R.S. § 16-246 outlines early balloting procedures in presidential preference elections (PPEs). Currently, statute contains two conflicting versions of A.R.S. § 16-246 (Laws 2007, Ch. 183, § 3 and Laws 2007, Ch. 168, § 3) that differ in the following ways:

- The deadline for requesting an early ballot;
- The list of candidates sent to uniformed services voters or overseas voters;
- The method by which official early ballots must be sent; and
- The persons who are responsible for sending early ballots, establishing on-site early voting locations and providing alphabetized lists of persons who were sent early ballots.

Provisions

Voter Registration Information

- Removes the unique identifying numbers given to registered voters from the list of information contained in voter registration records that is precluded from public inspection at the offices of county recorders.

Sample Ballots

- Allows the offices in charge of elections to choose not to send the following sample ballots to registered voters who are on the permanent early voting list:
  1. Sample general election ballots;
  2. Sample primary election ballots; and
  3. Sample PPE ballots.

Procedures for Early Voting

- Requires the on-site early voting locations that the county recorders may establish at their offices to be open and available for use 26 days before the election.

- Changes the deadline for the mailing of early ballots with and envelopes with prepaid postage to 26 days before the election.

- Removes the requirement that the address provided by the requesting elector be the elector's residence address or location of temporary residence while absent from the precinct.

- Removes procedures that are contingent on the statewide voter registration database not yet being operational.

- Prohibits regular early ballots from being distributed to electors before the beginning of early voting (26 days before the election) unless the electors are absent uniformed voters or overseas voters.

Procedures for Mail Ballot Elections in Special Districts

- Changes the time range for mailing ballots for the purpose of conducting a mail ballot election in a special district from not more than 33 days and not fewer than 15 days before the election to not more than 26 days and not fewer than 15 days before the election.

- Changes the method by which the ballots and return envelopes must be sent.

Miscellaneous

- Repeals A.R.S. § 16-246, as amended by Laws 2007, Ch. 168, § 3, relating to early balloting procedures for PPEs.

- Contains an emergency clause.

- Makes technical and conforming changes.

Amendment

Judiciary

- The strike-everything amendment was adopted.

HOUSE OF REPRESENTATIVES

SB 1022

jury fees; technical correction
Sponsor: Senator Gray C

DP Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1022 corrects a statutory cross-reference relating to the compensation given to persons serving on a state grand jury.

History

According to A.R.S. § 21-428, persons serving on a state grand jury must be compensated by the county in which the assignment judge is serving for reasonable per diem expenses as established by the Supreme Court in addition to other fees and amounts.

Laws 2007 Ch. 199, § 28 amended A.R.S. § 21-428 by replacing the reference to "fees and amounts stated in section 21-221" with a reference to "fees and amounts stated in section 21-211."

According to A.R.S. § 21-221, the counties must pay jurors $12 per diem for serving on the superior court or a justice court and must also reimburse jurors for the mileage necessary to travel to the court.

A.R.S. § 21-211 stipulates which persons shall be disqualified to serve as jurors in any particular action. It does not, however, specify any fees or amounts due to jurors.

Provisions

- Corrects a statutory cross-reference by replacing the reference to A.R.S. § 21-211 with a reference to A.R.S. § 21-221.

HOUSE OF REPRESENTATIVES

SB 1211

primary election date; conforming changes
Sponsors: Senators Johnson: Cheuvront

DPA
S/E Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1211 makes conforming changes pertaining to the date of primary elections and changes the date of special elections for the formation of new counties.

Summary of the proposed strike-everything amendment to SB 1211

History

Laws 2007, Ch. 168 moved the date of the primary election one week earlier, from the 8th Tuesday before the general or special election to the 9th Tuesday before the general or special election by amending A.R.S. § 16-201. It did not, however, change either the consolidated election date listed A.R.S. § 16-204 or the reference to the primary election date in A.R.S. § 1-305. SB 1211 makes the conforming changes.

A.R.S. § 41-772 (B) prohibits a state employee or member of the personnel board from:

- Being a member of any national, state or local committee of a political party;
- Being an officer or chairman of a partisan political club's committee;
- Being a candidate for nomination or election to any paid public office;
- Holding any paid, elective public office;
- Taking part in the any political party's management or affairs; or
- Taking part in the management of any partisan or nonpartisan campaign or recall effort.

However, A.R.S. § 41-772 (B) also provides exceptions to a state employee's political involvement, allowing an employee to:

- Express an opinion;
- Attend meetings for the purpose of becoming informed concerning political issues and the candidates for public office;
- Cast a vote and sign nomination and recall petitions;
- Make contributions to candidates, political parties or campaign committees;
- Circulate candidate nomination or recall petitions;
- Engage in activities to advocate the election or defeat of candidates; and
- Solicit or encourage contributions that are directly made to candidates or campaign committees.

According to A.R.S. § 16-821, precinct committeemen are chosen at primary elections by the members of a political party entitled to representation on the ballot. It is the responsibility of the precinct committeemen to assist their political party in voter registration and to assist the voters on election days. Additional duties are assigned to precinct committeemen based on state committee bylaws of the party of which they are a member (A.R.S. § 16-822).

Provisions

- Makes conforming changes by:
  1. Correcting an inaccurate reference to the date of primary elections; and
  2. Changing a consolidated election date to match the primary election date.

- Allows any state employee to be a candidate for and to hold the office of precinct committeeman.

- Makes technical changes.

Amendment

Judiciary

- The strike-everything amendment was adopted.

HOUSE OF REPRESENTATIVES

SB 1332

DNA testing; arrest
Sponsor: Senator Gray C

W/D Committee on Natural Resources and Public Safety

DPA Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1332 reorganizes provisions relating to court-ordered samples and exempts certain agencies from securing samples for DNA testing if DPS is already maintaining a sample.

History

A.R.S. § 13-610 requires that persons arrested, convicted or adjudicated delinquent for certain offenses (or who were arrested, convicted or adjudicated delinquent in another jurisdiction for an offense that, if committed in Arizona, would be a violation one of the relevant offenses) submit a sufficient sample of blood or other bodily substances for DNA testing to the Department of Public Safety (DPS).

DPS maintains samples of blood and other bodily substances for at least 35 years, conducts analyses of certain samples that it receives and maintains reports of the results of DNA analyses.

According to A.R.S. § 13-610 (K), if a person is arrested for a specified offense and is transferred by the arresting authority to a state, county or local law enforcement agency or jail, the arresting authority must secure a sufficient sample of buccal cells or other bodily substances for DNA testing and extraction and must transmit the sample to DPS.

A.R.S. § 13-610 (L) requires persons charged with certain misdemeanors and felonies who are released by the judicial officer on bail or on their own recognizance to report to the law enforcement agency that arrested the person and submit a sufficient sample of buccal cells or other bodily substances for DNA testing and extraction. If the person does not comply with the order, the court shall revoke the person's release.

Provisions

- Adds procedures relating to court-ordered DNA testing and extraction to the juvenile court hearings statute (A.R.S Title 8, Chapter 2, Article 3).

- Exempts agencies that are responsible for securing samples upon arrest or within 5 days after release on the person's own recognizance or on bail from securing the sample if the scientific criminal analysis section of DPS has previously received and is maintaining a sufficient sample.

- Makes technical and conforming changes.

Amendment

Judiciary

- Requires DPS to dispose of a person's DNA sample and expunge the person's DNA records if DPS receives a notice of disposal and expungement.

- Specifies that if a DNA sample is taken at the time of a person's arrest, the arresting agency must issue a notice of disposal and expungement and provide the notification on the earlier of either:
  1. The arresting agency's decision to not refer the matter for prosecuting.
  2. The tolling of the statute of limitations for the offense on which the arrest was made and the matter was not referred to the prosecuting agency.

- Requires the prosecuting agency to issue a notice of disposal and expungement on the earlier of any of the following:
  1. The person's acquittal of the charge or charges at trial.
  2. The dismissal of a charge after jeopardy has attached.
  3. The prosecuting agency's decision not to prosecute the charge.
  4. The tolling of the statute of limitations for the offense on which the charge is based.

- Requires notification be delivered, if applicable, to all of the following:
  1. DPS;
  2. The court;
  3. The person;
  4. The prosecuting agency;
  5. The arresting law enforcement agency; and
  6. The person's defense attorney.

- Specifies that a notice of disposal and expungement is not required if the DNA sample is taken as a result of multiple offenses and the notice of disposal and expungement requirements do not apply to at least one of the offenses.

- Defines *deoxyribonucleic acid record* and *deoxyribonucleic acid sample*.

HOUSE OF REPRESENTATIVES

SB 1354

accomplice liability

Sponsors: Senators Pesquiera, McCune Davis: Burton Cahill

DP Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1354 expands accomplice liability to include any offense that is a natural and probable or reasonably foreseeable consequence of the offense for which the person was an accomplice.

History

According to A.R.S. § 13-303, a person is criminally accountable for the conduct of another if:

1. The person is made accountable for such conduct by the definition the offense; or
2. Acting with the culpable mental state sufficient for the commission of the offense, a person causes another person to engage in such conduct; or
3. The person is an accomplice of such other person in the commission of an offense.

A.R.S. § 13-301 defines *accomplice* as a person, other than a peace officer acting in his official capacity and in the line of duty, who with the intent to promote or facilitate the commission of an offense:

1. Solicits or commands another person to commit the offense; or
2. Aids, counsels, agrees to aid or attempts to aid another person in planning or committing the offense.
3. Provides means or opportunity to another person to commit the offense.

Provisions

- Expands accomplice liability to include any offense that is a natural and probable or reasonably foreseeable consequence of the offense for which the person was an accomplice.

- Makes a conforming change.

HOUSE OF REPRESENTATIVES

SB 1405

election laws; county provisions
Sponsor: Senator Gray C

DPA
S/E Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1405 makes numerous changes to elections statutes including, but not limited to, changing the time period when ballots are mailed.

Summary of the proposed strike-everything amendment to SB 1405

History

Horse tripping is an event that predominately occurs in smaller rodeos. Horse tripping is the practice of roping the legs of a galloping horse, which then causes the horse to trip or lose its balance and fall to the ground. There are three different ways that a person can cause the horse to fall: roping the hind legs of the horse, tripping the horse from on foot or tripping the horse from horseback. Points are then awarded to the person who made the horse fall.

Currently, seven states have passed legislation and four states are considering legislation to ban horse tripping. The seven states that have already banned it are: California, Florida, Illinois, Maine, New Mexico, Oklahoma and Texas. The four that are considering legislation are: Nevada, Wyoming, Colorado and Nebraska.

Provisions

- Classifies tripping an equine for sport or entertainment as a Class one misdemeanor (presumptive sentence is up to 6 months in jail and a fine of up to $2,500).

- Establishes minimum sentencing and fines for first, second and third offenses, as follows:
  - First offense- 48 hours in jail; $1,000 fine.
  - Second offense-30 days in jail; $2,000 fine.
  - Third and subsequent offenses-90 days in jail; $2,000 fine.

- Specifies that "tripping" does not include other equine events such as: jumping, steeplechase or show events, calf or steer roping and other traditional western rodeo events.

- Defines *equine* as a horse, pony, mule, donkey or hinny.

- Defines *trips* as causing an equine to lose its balance or fall by using a wire, pole, stick, rope or any other object.

Amendment

Judiciary

- The strike-everything amendment was adopted.

HOUSE OF REPRESENTATIVES

SB 1486

notary public; name change.

Sponsors: Senators Aguirre, Burton Cahill, Representative Lujan, et al.

DP Committee on Judiciary

X Caucus and COW

House Engrossed

SB 1486 expands the procedures relating to surname changes of notaries due to marriage to apply to all surname changes of notaries.

History

Notaries public (notaries) are appointed by the Secretary of State and commissioned to serve four year terms of office (A.R.S. § 41-312). Notaries perform the following duties when requested:

1. Take acknowledgments and give certificates of the acknowledgments endorsed on or attached to the instrument;
2. Administer oaths and affirmations;
3. Perform jurats; and
4. Perform copy certification (A.R.S. § 41-313).

According to A.R.S. § 41-327 (A), if a notary's surname changes due to marriage, then the following must take place:

- The notary is allowed to continue to use the official seal and commission that is in the notary's prior name until the commission expires;
- The notary must sign both the notary's married name and the name under which the notary was commissioned; and
- The notary must notify the Secretary of State's office within 30 days of the change of surname due to marriage.

Currently, if a notary's name changes for reasons other than due to marriage, the notary must apply for a new notary commission under the new name (A.R.S. § 41-327 (B)).

Provisions

- Expands the procedures relating to surname changes of notaries to apply to all notaries who change surnames, rather than applying only to those notaries who change surnames due to marriage.

- Removes the requirement that notaries whose names change must apply for new notary commissions under the new names.

HOUSE OF REPRESENTATIVES

SB 1029

AMA water districts; conflicting versions
Sponsor: Senator Tibshraeny

DPA
S/E Committee on Natural Resources and Public Safety

X Caucus and COW

House Engrossed

Senate Bill 1029 repeals a conflicting version of Arizona Revised Statutes § 48-4831.

History of the Strike-Everything Amendment

Three mortgage lending entities are regulated by the Department of Financial Institutions (DFI):

-*Mortgage Brokers* are defined in A.R.S. § 6-901 as persons who are not exempt under section 6-902 and who for compensation or in the expectation of compensation either directly or indirectly make, negotiate or offer to make or negotiate a mortgage loan.

-*Mortgage Bankers* are defined by A.R.S. § 6-941 as persons who are not exempt under section 6-942 and who for compensation or in the expectation of compensation either directly or indirectly make, negotiate, or offer to make or negotiate a mortgage banking loan or mortgage loan.

-*Commercial Mortgage Bankers* as defined by A.R.S. § 6-971 are persons who originate commercial mortgage loans, service commercial mortgage loans or either directly or indirectly make or negotiate commercial mortgage loans.

These entities have different dates for approval, renewal, requests for inactive status, suspension or expiration of licenses.

Licensees who hold licenses in different states may have to comply with different renewal dates and renewal systems in multiple states. Many states are considering uniform nationwide renewal dates so that licensees can participate in the Nationwide Mortgage Licensing System (NMLS) to complete online licensing application or renewals.

NMLS is an Internet-based system that provides a basis for coordination among states for mortgage supervision and consumer protection. For example, a mortgage originator with complaints or violations in one state would not be able to move to a new state and have a clean record. Forty-two state agencies in 40 states have stated their intent to use the NMLS.

Provisions of the Strike-Everything Amendment

Mortgage Brokers

For licenses approved on or before September 30, 2008

- Requires the license renewal fee for subsequent years to be paid on or before December 31, 2009.
- Allows a licensee to request inactive status on or before September 30, 2008.

For licenses approved after or renewed on September 30, 2008

- Requires the licensee to pay the renewal fee on or before December 31, 2009 and on or before December 31 of each subsequent year.
- States that licenses not renewed by December 31 are suspended and the licensee is prohibited from acting as a mortgage broker until the license is renewed or a new license is issued.
- Prescribes that a suspended license may be renewed by paying a renewal fee plus $25 for each day after December 31 that a renewal fee is not received by the superintendent.
- States that a license that is not renewed by January 31 expires and the holder of the expired license must apply for a new license in the manner they applied for issuance of an original license.
- Allows a licensee to request inactive status for the following license year if the licensee makes the request on or before December 31 and surrenders the license to the superintendent. A licensee may not be on inactive status for more than two consecutive years or more than four years in any 10 year period.

Mortgage Bankers

For licenses approved on or before March 31, 2009

- Requires the license renewal fee to be paid on or before March 31, 2009 but not before February 1, 2009 and on or before December 31 for subsequent years beginning in 2009.

For licenses approved after or renewed on March 31, 2009

- Requires the licensee to pay the renewal fee on or before December 31, beginning in 2009.
- States that licenses not renewed by December 31 are suspended and the licensee is prohibited from acting as a mortgage banker until the license is renewed or a new license is issued.
- Prescribes that a suspended license may be renewed by paying the renewal fee plus $25 for each day after December 31 that the fee is not received by the superintendent.
- States that licenses not renewed by January 31 are expired and the holder of the expired license must apply for a new license in the manner they applied for the original license.

Commercial Mortgage Bankers

For licenses approved after or renewed on March 31, 2009

- States that licenses not renewed by December 31, 2009 and by December 31 of each subsequent year are suspended and the licensee is prohibited from acting as a commercial mortgage banker until the license is renewed or a new license is issued.
- States that a suspended license may be renewed as prescribed by the superintendent.
- Stipulates that licenses not renewed by January 31 are expired and the holder of the expired license must apply for a new license in the manner they applied for the original license.

Miscellaneous

- A licensee may request inactive status for licenses approved after or renewed on March 31, 2009 on or before December 31 of each year for the following license year, and the license is placed on inactive status after it is surrendered to the superintendent.
- Makes technical and conforming changes.

Amendments

The Committee on Natural Resources and Public Safety adopted the Strike-Everything Amendment

HOUSE OF REPRESENTATIVES

SB 1048

chairperson; DUI abatement council
Sponsor: Senator Gray, L.

DPA
S/E Committee on Natural Resources and Public Safety

X Caucus and COW

House Engrossed

Senate Bill 1048 allows a member of the Oversight Council on Driving or Operating Under the Influence Abatement to serve consecutive terms as chairperson.

History of the Strike-Everything Amendment

Laws 1997, Chapter 83, § 1 added § 13-3603.01 to Arizona Revised Statutes which states that a person who knowingly performs a partial-birth abortion and who kills a human fetus is guilty of a Class 6 felony. It includes an exemption for partial-birth abortions that are necessary to save the life of a mother if no other medical procedure would save the mother's life. In it, *partial-birth abortion* is defined as an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

On October 27, 1997, an Arizona federal district court found A.R.S. § 13-3603.01 to be unconstitutional. See *Planned Parenthood v. Woods*, 982 F.Supp. 1369. In 2003, the United States Congress passed the Partial Birth Abortion Ban Act (Act) which prohibited the procedure. On April 18, 2007, the United States Supreme Court upheld the constitutionality of the Act. See *Gonzales v. Carhart*, 127 S.Ct. 1610.

Provisions of the Strike-Everything Amendment

- Prescribes that any physician who knowingly performs a partial-birth abortion must be fined under Arizona Revised Statutes, Title 13 or imprisoned for not more than two years, or both.
- Adds that the partial-birth abortion prohibition does not apply to cases when the procedure is necessary to save the life of a mother whose life is endangered by a physical condition caused by or arising from the pregnancy itself.
- Allows a defendant accused of violating the partial-birth abortion section of statute to seek a hearing before the Arizona Medical Board to determine whether the defendant's conduct was necessary to save the life of a mother who was in physical danger.
  - Stipulates that the findings on that issue are admissible on that issue at the trial of the defendant.
  - Requires the court to delay the beginning of a trial for not more than 30 days, on a motion of the defendant, to allow a hearing to take place.
- Modifies the definition of *partial-birth abortion*.
- Eliminates the definition of *person*, and replaces it with a modified definition of *physician*.
- Includes a severability clause.
- Includes an emergency clause.
- Makes technical and conforming changes.

Amendments

The Committee on Natural Resources and Public Safety adopted the Strike-Everything Amendment.

HOUSE OF REPRESENTATIVES

SB 1264
public rights-of-way; claims
Sponsor: Senator Johnson

DP Committee on Natural Resource and Public Safety

X Caucus and COW

House Engrossed

Senate Bill 1264 provides for the retention of Revised Statute 2477 rights-of-way that were enacted before October 21, 1976.

History

Congress passed the Mining Act of 1866 and allowed for the right-of-way for the construction of highways over public lands that are not reserved for public uses. The Mining Act of 1866 was later reenacted and recodified as Revised Statute 2477 (R.S. 2477). In 1976, R.S. 2477 was repealed with the enactment of Section 5 of the Federal Land Policy and Management Act (FLPMA). The FLPMA maintained existing R.S. 2477 rights-of-way.

Provisions

- Asserts and claims, on behalf of Arizona and its political subdivisions, rights-of-way across public lands that were acquired from and after the effective date of R.S. 2477 through its repeal on October 21, 1976.
- Specifies that these rights-of-way may have been acquired in any manner authorized by the law of the United States, the Territory of Arizona or this State, including:
  - The use by this State or a political subdivision of this State with the intention of establishing a public highway or public lands.
  - The construction of maintenance of a public highway over public lands.
  - The inclusion of the right-of-way in a state, county or municipal road system, plat, description or map of public roads.
  - The expenditure of public monies on the highway.
  - The execution of a memorandum of understanding or other agreement with any agency of the United States Government that recognizes the right or obligation of this State or a county, city or town to construct or maintain a highway or a portion of a highway.
  - Any other affirmative act by this State or a county, city or town, consistent with federal, territorial or state law indicating acceptance of a right-of-way.
  - The use by the public for a period required by law.
- Stipulates that this State does not recognize or consent, and has not consented, to the exchange, waiver or abandonment of any R.S. 2477 right-of-way across public lands unless by formal, written official action by the state, county or municipal agency or instrumentality that held the right-of-way, and recorded in the office of the county recorder of the county in which the public lands are located.
  - Establishes that no officer, employee or agent of this State or a county, city or town has or had authority to exchange, waive, or abandon a R.S. 2477 right-of-way unless by formal, written official action.

- Specifies that the failure to conduct mechanical maintenance of a R.S. 2477 right-of-way does not affect the status of the right-of-way as a highway for any purpose of R.S. 2477.
- Stipulates that the omission of a R.S. 2477 right-of-way from any plat, description or map of public roads does not waive or constitute a failure to acquire a right-of-way under R.S. 2477.
- Maintains that the extent of a R.S. 2477 right-of-way is the dimension that is reasonable under the circumstance.
- Directs that a R.S. 2477 right-of-way includes the right to:
  - Widen the highway as necessary to accommodate increased public travel and traffic associated with all accepted uses.
  - Change or modify the horizontal alignment or vertical profiles as required for public safety and contemporary design standards.
- Stipulates that this legislation does not affect the inclusion or exclusion of, or the obligation of maintaining, any highway, road, street or route in any system of state, county or municipal streets, roads or highways.
- Requires the inclusion of any highway, road, street or route in the state, county or municipal system to be in accordance with other law.

HOUSE OF REPRESENTATIVES

SB 1338

state forester; wildfire suppression funding
Sponsors: Senators Flake, Arzberger

DP Committee on Natural Resources and Public Safety

X Caucus and COW

House Engrossed

Senate Bill 1338 allows the State Forester to incur liabilities up to three million dollars from the State General Fund for suppressing wildfires and preparing for a time of extreme fire danger.

History

A.R.S. § 37-621 prescribes that the Governor will appoint a State Forester whose responsibilities are:

- Performing all management and administrative functions assigned to the State by the United States relating to forestry.
- Identifying sources of information relating to forest management, including wildfire suppression and recovery and administrative and judicial appeals with respect to timber sales and forest thinning projects.
- Taking necessary action to maximize state fire assistance grants, including establishing timelines for using grant monies.
- Conducting education and outreach in forest communities explaining the wildfire threat to private property caused by a lack of timber harvesting and thinning.
- Monitoring forestry projects and wildfire activities.
- Intervening on behalf of the State in administrative and judicial appeals that challenge governmental efforts supported by the State Forester.
  (A.R.S. § 37-622)

A.R.S. § 37-623 provides the State Forester with the authority to prevent and suppress any wildfires on State and private lands located outside incorporated municipalities and, if subject to cooperative agreements, on other lands in the State, in other states, Mexico or Canada. When exercising the authority to prevent forest fires, the State Forester may declare a prohibition on fireworks and other fire causing activities. Notice of such a prohibition must be posted in the office of the Secretary of State and be given to the news media, and must clearly state what activities are prohibited.

A.R.S. § 37-623.02 allows the Governor to authorize the State Forester to incur liabilities for suppressing wildland fires and responding to other unplanned all risk activities such as flood, earthquake, wind and hazardous material responses from unrestricted monies in the State General Fund whether the Legislature is in session or not. Liabilities incurred are subject to the following restrictions:

- Wildland fire suppression shall not exceed two million dollars of State General Fund monies in one fiscal year.

- The Governor may authorize the State Forester to spend an additional one million dollars of General Fund monies to prepare for periods of extreme fire danger and pre-position of equipment and other resources to enhance the initial efforts to stop wildland fires. The Governor must determine when the periods of extreme fire danger exist and must approve any expenditure for pre-positioning activities.
- If the funding authorizations are exhausted or if the nonreimbursable liabilities incurred exceed the cash balance of the Fire Suppression Revolving Fund, the State Forester cannot incur additional liabilities without the consent of a majority of the State Emergency Council.

A.R.S. § 37-623.02 establishes the Fire Suppression Revolving Fund (Fund) for the deposit of monies received by the State Forester for the suppression of wildfires and supporting other nonplanned all risk activities such as fire, flood, earthquake, wind and hazardous material responses. Monies in the Fund are continuously appropriated to the State Forester, except that if the unobligated balance exceeds two million dollars at the end of the calendar year, the excess monies revert to the State General Fund.

Provisions

- Prescribes that the State Forester cannot expend over three million dollars from the General Fund for costs associated with suppression of wildland fires, to prepare for periods of extreme fire danger and pre-position of equipment and other fire suppression resources to provide for an enhanced initial attack on wildfires.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1438

mine inspector; abandoned mines; donations

Sponsors: Senators Flake, O'Halleran; Representative Konopnicki, et al.

DP Committee on Natural Resources and Public Safety

DP Committee on Environment

X Caucus and COW

House Engrossed

Senate Bill 1438 allows the State Mine Inspector to accept in-kind donations of material, equipment and services to eliminate the public safety hazard of abandoned mines, to fill abandoned mines with inert materials, and repeals the Inspector's authority to donate surplus mining rescue equipment.

History

The State Mine Inspector (Inspector) is responsible for inspecting every active underground mine in Arizona with 50 or more employees at least once every three months. Other mines in the State must be inspected at least once every year. Inspections include examination of operations, conditions, safety appliances, machinery, equipment, sanitation and ventilation, means of ingress and egress, means taken to protect workers and causes of deaths or injuries at the mine.
(A.R.S. § 27-124)

The Inspector must establish a program to locate, inventory, classify and eliminate the public safety hazards at abandoned mines. The Inspector must spend state appropriated monies to address abandoned mines on State lands first, and then may address mines on lands not owned by the State. If an abandoned mine is located on lands not owned by the State, the Inspector must attempt to notify in writing the owner or responsible party of the public safety requirements relating to abandoned mines. The Inspector may enter into agreements with Indian tribes in the State to extend the abandoned mine program onto tribal lands, and may accept monies from any source, including restricted and unrestricted federal funds, gifts and contributions from other governmental agencies.
(A.R.S. § 27-129)

Notwithstanding any other law, the Inspector may dispose of used mine rescue equipment which has no value to the State, as determined by the Inspector, by donating it to a nonprofit mine rescue organization or by transferring it to a political subdivision of the State.
(A.R.S. § 27-130)

Every mine operator or former mine operator who knowingly permits the existence of an abandoned or inactive mining shaft, portal, pit or other excavation that is dangerous to people legally on the premises must cover, fence, fill or otherwise secure the mine and post warning signs within 60 days of notification by the Inspector. Failure to comply with this requirement is a Class 2 misdemeanor. If it is impossible or impractical to comply within the 60 day time period the operator may submit to the Inspector a written plan of action outlining the measures to be taken and the number of days necessary to comply, provided the extension is no longer than an additional 180 days. Removing, destroying or tampering with protections placed on, around or over an abandoned mine is a Class 6 felony.
(A.R.S. § 27-318)

Abandoned mine means a mine where operations have been permanently terminated or the operator has complied with regulations relating to notification of beginning or suspending mining operations, or for which no owner, operator, or other claimant of record can be located for a deserted mine site. (A.R.S. § 27-301)

Inert material must satisfy the following requirements:

- Is not flammable.
- Will not decompose.
- Will not leak substances in concentrations that exceed applicable aquifer water quality standards when subjected to a water leach test.
    - Includes concrete, asphaltic pavement, brick, rock, gravel, sand, soil and metal if used as reinforcement in concrete. (A.R.S. § 49-701)

Provisions

- Allows the State Mine Inspector to accept in-kind donations of materials, equipment or services to eliminate public safety hazards at abandoned mines from any person, public entity or legal entity.
- Prescribes that a person who makes donations for this purpose may not be held liable for damages for any injury or death related to the elimination of public safety hazards at abandoned mines unless the injury or death is a result of gross negligence or intentional misconduct by the donor.
- Allows the Inspector to recover any reasonable and necessary cost incurred by removing the public safety hazards of abandoned mines in a civil action brought by the Attorney General against the responsible party.
- Allows inert material, including glass, to be used to fill abandoned mine shafts, provided the top 10 feet of the shaft is filled with earthen material.
- Repeals A.R.S. § 27-130 relating to the disposal of surplus equipment.

HOUSE OF REPRESENTATIVES

SB 1030

economic development; conflicting laws; repeal
Sponsor: Senator Tibshraeny

W/D	Committee on Commerce
DPA	
S/E	Committee on Public Institutions and Retirement
X	Caucus and COW
	House Engrossed

SB 1030 corrects conflicting enactments relating to economic development expenditures for cities and towns by repealing Laws 2005, Chapter 105 § 2.

Summary of the proposed strike-everything amendment to SB1030

The strike-everything amendment to SB 1030 adopted in the Committee on Public Institutions and Retirement expands the definition of qualified service to include part or all of the period in which a fulltime firefighter was employed by a corporation that contracted with a PSPRS employer to provide firefighting services, on the condition that the employer so specifies in its joinder agreement with PSPRS. It also permits a PSPRS member to purchase any part of that service.

History of Strike-Everything Amendment

Established in 1968, the Public Safety Personnel Retirement System (PSPRS) administers the statewide retirement program for public safety personnel who are regularly assigned hazardous duty in the employ of the state of Arizona. A.R.S. §38-842 defines "regularly assigned to hazardous duties" as "...duties of the type normally expected of municipal police officers, municipal or state fire fighters, eligible fire district fire fighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens..." Currently, police officers, fire fighters, highway patrol officers, county sheriffs and deputies, and game and fish wardens are included in the list of eligible groups.

Currently, active members who had previous service in this state in a covered position with an employer now participating in the system or had previous service as a full-time paid fire-fighter or full-time paid certified peace officer with an agency of the U.S. Government, a state of the U.S. or a political subdivision of a state of the U.S., may elect to redeem any part of the prior service by paying into the system the amounts required by law, if the prior service is not on account with any other retirement system. (A.R.S. §38-853.01).

Provisions of Strike-Everything Amendment

- Expands the definition of qualified service to include part or all of the period in which a fulltime firefighter is employed by a corporation that has contracted with a PSPRS employer, on the condition that the employer so specifies in its joinder agreement with PSPRS.

- Permits a PSPRS member to purchase any part of prior employment performed as an employee of a corporation that contracted with a PSPRS employer to provide firefighting services.
- Makes technical and conforming changes.

Amendments

Committee on Public Institutions and Retirement

- The strike-everything amendment was adopted.

HOUSE OF REPRESENTATIVES

SB 1037

disabled persons; organizations; license plates
Sponsors: Senator Harper

S/E
DPA Committee on Transportation

X Caucus and COW

House Engrossed

SB 1037 allows a motor vehicle dealer to issue an international symbol of access special plate to an organization that has previously been issued an international symbol of access special plate.

The strike everything amendment to SB 1037 allows the courts to order a juvenile's parent or guardian to help the juvenile perform community restitution if the juvenile is adjudicated delinquent of a second or subsequent graffiti offense and certain conditions are met.

History

According to A.R.S. § 13-1602 (A) (5), a person who recklessly draws or inscribes a "message, slogan, sign or symbol that is made on any public or private building, structure, or surface, except for the ground, and that is made without permission of the owner" commits criminal damage.

A.R.S. § 8-341 (S) states that a juvenile who is found delinquent for a second or subsequent violation of A.R.S. § 13-1602 (A) (5) must pay a fine of at least $300 but not more than $1,000. It also allows the court to order the juvenile to perform community restitution in lieu of the payment for all or part of the fine.

Provisions

- Stipulates that, if a juvenile is adjudicated delinquent for a second or subsequent graffiti offense and is ordered to perform community restitution, then the court may order the juvenile's parent or guardian to assist the juvenile in the performance of the community restitution so long as the parent or guardian both:
  1. Had knowledge that the juvenile was intending to engage or was engaged in the graffiti offense; and
  2. Knowingly supplied the juvenile with the means to commit the offense.
- Makes technical and conforming changes.

Amendments

Transportation

- The strike everything amendment was adopted.

HOUSE OF REPRESENTATIVES

SB 1291

towing companies; release of vehicles
Sponsor: Senator Gorman

DPA Committee on Transportation

X Caucus and COW

House Engrossed

Senate Bill 1291 requires a towing company to provide a requesting insurance company with a detailed written statement of all charges for towing, storage and related fees following the insurance company's request for release of a vehicle. In addition, SB 1292 prohibits a vehicle repair facility from paying a towing company to induce potential customers to a particular repair facility. SB 1292 makes several other changes to the vehicle release process between towing and insurance companies.

History

Laws 2003, Chapter 153 requires a towing company to release a vehicle in the tower's possession to an insurance company if the insurance company representative delivers a vehicle release request to the tower containing statutorily specified information.

Laws 2004, Chapter 144 further amended the statutes governing release of a vehicle between a tower and an insurance company. The 2004 changes require that a towing company must release a vehicle on the day both the release request and payment are provided to the tower and further specifies the information and protections that must be in the release request form depending on whether the insurance company has the vehicle owner's consent to move the vehicle. The 2004 changes also specify that the towing company is not liable for loss or damage to the vehicle that is not disclosed to the towing company before removal of the vehicle from the tower's storage premises, and states that a cause of action against a tower is not created if the tower releases a vehicle to a person other than the vehicle owner if written authorization for release is provided by the owner or an insurance company. In addition, the 2004 changes allow the vehicle owner to inspect the vehicle at the towing company's storage premises, remove any personal property from the vehicle and report any vehicle damage to the towing company at that time.

Provisions

- Adds the requirement that a towing company must provide at no cost a detailed statement of towing fees and charges as part of the vehicle release procedure.
- States that towing, storage and related fees charged by the towing company must be reasonable.
- Prohibits a towing company from charging for removal of personal property from within a towed vehicle if the removal is done during business hours. Specifies that personal property does not include vehicle parts, equipment or accessories.
- Allows for additional storage charges to accrue until final payment is made to the tower and the vehicle is removed from the premises by the owner or insurance company.

- Prohibits a towing company from moving a previously towed vehicle from its storage lot without prior permission from the owner or insurance company except that the towing company may move the vehicle between its own lots for business purposes at no additional charges to the owner or insurance company.
- Prohibits a vehicle repair facility or its employees from paying or agreeing to pay a towing company in order to recommend services to a potential customer.
- Prohibits a towing company or its employees from accepting or agreeing to accept payment from a vehicle repair facility in order to recommend services to potential customers or to deliver a vehicle to one repair facility rather than another.
- Makes an exception to automobile membership associations when recommending towing companies and vehicle repair facilities in accordance with the association's terms of membership.
- Requires a towing company to tow a vehicle to one of the following locations in the following priority unless otherwise directed by a law enforcement officer:
    1. A location specified by the owner of the vehicle if the owner is present at the time of the tow and able to indicate a preference.
    2. A vehicle storage yard designated in the contract under which the towing company has responsibility for towing the vehicle.
- Classifies paying or accepting or agreeing to pay or accept any monies, fees, commissions, credits, gifts, gratuities, things of value or other compensation for recommending the services of a vehicle facility to potential customers, referring potential customers to a repair facility or delivering a vehicle to one repair facility over another as a class 2 misdemeanor.
- Makes technical and conforming changes.

Amendments

Transportation

- Requires a towing company to inform a customer that they have the right to choose any repair facility they want if the towing company also recommends or gives information on a repair facility.
- Directs the Arizona Department of Public Safety to prescribe a form to be used by a towing company and signed by a person requesting a tow that the towing company advised them that they have the right to use a repair facility of their choice.
- Requires towing companies to retain the signed forms for a period of three years and to make those records available to any law enforcement officer during normal business hours.
- Removes requirements relating to towing companies and vehicle repair facilities that would have prohibited the following:
    1. Recommend the services of a vehicle repair facility to potential customers.
    2. Refer potential customers to a vehicle repair facility.
    3. Deliver a vehicle to one vehicle repair facility over another.
- Prohibits a towing company or vehicle repair facility from doing the following:
    1. Attempt to intimidate or induce a person requesting the tow to choose the services of a vehicle repair facility recommended by the towing company.
    2. Refuse to tow a vehicle unless the person requesting the tow agrees to the vehicle repair facility recommended by the towing company.
    3. Deliver a vehicle to a repair facility other than the one chosen by the person requesting the tow.
- Clarifies that "gift" does not include items of nominal value.

- Establishes a petty offense for the first violation and a class two misdemeanor for any subsequent violation within a thirty-six month period.

HOUSE OF REPRESENTATIVES

SB 1431

exemption; nursing assistant programs
Sponsors: Senators Aboud, Aguirre, Pesquiera, et al.

DP Committee on Transportation

DP Committee on Health

X Caucus and COW

House Engrossed

Senate Bill 1431 exempts schools that solely provide an instructional program for certified nursing assistants and is licensed by the Board of Nursing and professional drivers training schools licensed by the Department of Transportation (ADOT) from licensure by the State Board of Private Postsecondary Education.

History

The State Board of Private Postsecondary Education (Board) licenses and regulates 184 private postsecondary educational institutions operating vocational and degree programs. These private universities, colleges, career colleges, and vocational schools annually serve approximately 321,000 students. Formerly, students were only Arizona residents, however, with e-learning, Arizona schools now provide training to students across the nation and around the world. The Board acts on license applications, determines compliance, investigates complaints and violations, takes disciplinary action, confiscates and retains student educational records from closed institutions, provides students with access to their educational records, and administers the Student Tuition Recovery Fund, which provides financial restitution to students injured by private postsecondary institutional closures.

A.R.S. § 32-3021 currently provides exemption from licensure by the Board for the following:

1. Barber, cosmetology and flight schools.
2. An instructional program or course sponsored by a bona fide trade association solely for its members.
3. Private schools designed to provide general education needed to gain entrance into public postsecondary institutions.
4. Schools providing less than 40 hours of training related to hobbies, avocations, academic improvement or recreation and cost less than $1000.
5. Employer operated schools designed to teach their employees.
6. Courses offered by an employer to employees if the employees are not charged fees and the course is provided or funded through a contract with the employee.

Currently, both the Board and the Board of Nursing are charged with regulating nursing assistant educational programs. In a 2007 Arizona Ombudsman report it was learned that both of these boards are duplicating regulatory functions to include instructor/operator qualifications, complaint resolution, discipline enforcement, curriculum development and facility maintenance.

Additionally, ADOT licenses professional drivers' training schools but the schools also fall within the jurisdiction of the Board.

Provisions

- Exempts a school that solely provides an instructional program for certified nursing assistants and professional drivers' training schools from being licensed by the State Board of Private Postsecondary Education.

HOUSE OF REPRESENTATIVES

SB 1464

venture trucks; regulation

Sponsors: Senator Gould: Representative Groe, Senator Harper

DP Committee on Transportation

X Caucus and COW

House Engrossed

Senate Bill 1464 establishes a new class of vehicle known as Venture Trucks. SB 1464 also defines what Venture Trucks are and the various regulations and exemptions for their operation.

History

"Venture Trucks", also known as "mini-trucks", "Kei-class" or "K-class" trucks are imported into the United Stated from Japan. Japanese laws discourage the use of older vehicles and because of rigorous maintenance requirements it is not economical to keep these trucks in Japan past a certain time. Because these trucks do not meet Federal Motor Vehicle Safety Standards, and are not defined as "Low Speed Vehicles" by federal rule, these mini trucks are sold in many states for off-road, farm or industrial site use. These trucks can be imported for off-road use in any state provided the truck has a permanently installed engine and/or transmission governor limiting speed to 25 mph or less.

Anecdotal evidence indicates that a few states allow the K-class trucks to be registered for on-road use. These states classify the truck as an ATV or a "Slow Moving Vehicle" and it limits use to certain types of streets or roadways. In addition, the American Association of Motor Vehicle Administrators is considering on-road use of K-class vehicles as part of its Unconventional Vehicles Working Group.

Provisions

- Defines "Venture Truck".
- Requires a person operating a Venture Truck, off-highway vehicle, off-road recreational motor vehicle to ride only on the permanent and regular seat attached to the vehicle.
- Prohibits the carrying of any other person on a Venture Truck, off-highway vehicle, off-road recreational motor vehicle, unless the vehicle is designed to carry more than one person.
- Allows Venture Trucks to be equipped with head lamps that are single beam lamps.
- Exempts Venture Trucks from rear fender splash guards and safety glass requirements.
- Prohibits Venture Trucks from being operated at speeds greater than 25 miles per hour.
- Restricts the operation Venture Trucks to highways with speed limits of 35 miles per hour or less.
- Exempts the owner of a Venture Truck from obtaining a certificate of compliance stating that the vehicle meets all federal vehicle equipment and emissions equipment requirements.
- Allows the purchaser or transferee of a Venture Truck to present proof of ownership satisfactory to the Director if the purchaser or transferee is unable to obtain a certificate of title from the seller within 15 days of the transfer.

- Exempts Venture Trucks from registration when operated incidentally on a highway or in an off-road situation.
- Requires Venture Trucks to have a number that is approved by the director of ADOT permanently affixed to the frame of the truck.
- Prohibits Venture Trucks from using rights-of-way designated for exclusive use by bicycles.
- Exempts Venture Trucks operating on dirt roads in unincorporated areas or that are incidentally operated or moved on a highway from mandatory motor vehicle insurance.
- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1466

rest area privatization; state highways

Sponsors: Senator Gould: Representative Groe, Senator Harper

DP Committee on Transportation

X Caucus and COW

House Engrossed

Senate Bill 1466 authorizes the Arizona Department of Transportation (ADOT) to privatize rest areas constructed on or adjacent to state highways.

History

Arizona law permits the ADOT Director to acquire real property that the Director considers necessary for transportation purposes by purchase, donation, dedication, exchange, condemnation or other lawful means with monies from the state highway fund or any other monies appropriated to the department. Property acquired for transportation purposes includes land or any interest in the land necessary for multiple purposes to include rights-of-way, campsites, roadside rest areas, water or material needed in the construction, improvement or maintenance of state highways, airports, runways, taxiways or other property under the jurisdiction, possession or control of the department.

Arizona statutes further allow the Director to lease the use of areas above or below state highways to any public agency or to a private person or entity.

Provisions

- Allows ADOT to privatize any rest area constructed on or adjacent to state highways.

HOUSE OF REPRESENTATIVES

SB 1468

ADOT continuation; five years
Sponsors: Senator Gould: Representative Groe, Senator Harper

DP Committee on Transportation

X Caucus and COW

House Engrossed

Senate Bill 1468 provides for the continuation of the Arizona Department of Transportation (ADOT) for eight years, until July 1, 2016.

History

ADOT was established in 1974 pursuant to A.R.S. § 28-331 and is statutorily charged under A.R.S. Title 28 with providing an integrated and balanced state transportation system. ADOT has exclusive control and jurisdiction over state highways, state routes, state-owned airports and all state-owned transportation systems. Additionally, under Arizona law, ADOT is required to register motor vehicles and aircraft, license drivers, collect revenues, enforce motor vehicle and aviation statutes, perform multi-modal state transportation planning, design and construct transportation facilities, and maintain and operate state public transportation systems. In order to carry out these responsibilities and others, ADOT is organized into six divisions: Motor Vehicle (MVD); Transportation Planning; Highways; Aeronautics; Public Transit and Administrative Services.

In accordance with A.R.S. § 41-3008.17, ADOT terminates on July 1, 2008, unless continued.

Under state law each new and existing agency has no more than a ten-year life span, at the end of which the agency is subject to a sunset review. Arizona Revised Statutes Title 41, chapter 27 sets out the sunset conditions and procedures, and article 2 of that chapter establishes the sunset schedule for the various agencies.

Statutes require that an agency terminate on July 1 of the appropriate year and the enabling statutes for the agency are repealed six months later on January 1 of the following year under the assumption that even though the agency is officially terminated, it may still require continuing statutory existence while it concludes its affairs.

Since sunset legislation usually becomes effective on the general effective date, it is necessary to include a retroactivity provision relating back to July 1, the date the agency terminates.

Provisions

- Repeals the current termination date of July 1, 2008 for ADOT.
- Continues ADOT until July 1, 2016.
- Repeals Title 28 on January 1, 2017.
- Makes the act retroactive to July 1, 2008.

HOUSE OF REPRESENTATIVES

SB 1289
flood protection districts; financing
Sponsor: Senator Flake

DP Committee on Water and Agriculture

X Caucus and COW

House Engrossed

SB 1289 establishes financial mechanisms for a Flood Protection District to construct, reconstruct, replace, renovate, repair or acquire a flood protection facility.

History

A Flood Protection District (District) can be formed to protect lands from the flooding or overflow waters of any natural watercourse, stream, canyon or wash. To form a District five or more landowners must submit a petition to the County Board of Supervisors (BOS). If the BOS deems the District to be necessary and feasible, it will hold hearings regarding the establishment of the District and election of a Board of Directors (Board) for the District. The lands included within the boundaries of the District must be subject to flooding or overflow waters of a natural watercourse, stream, canyon or wash proposed and need protection. The District may be funded by a tax that is levied against the property in the District, and may also be funded by bonds.

Provisions

District Authority

- Authorizes the Board of a District to construct, reconstruct, replace, renovate, repair or acquire a flood protection facility (facility).

- The Board may:
  - Join with cities, towns, other taxing districts, the state or federal government to construct, operate or maintain a facility.
  - Accept grants from private persons, the state or federal government for the construction of facilities.
  - Enter into contracts with the state or federal government to construct a facility.
  - Establish assessments on property that will benefit from the facility to pay for the facility's cost.

- Outlines notice requirements for public hearings and records retention requirements.

Resolution of Intention (ROI)

- Requires a ROI be adopted in order to proceed with an improvement. The ROI must contain:
  - A description of the improvement, which may include reasons why the improvement should be constructed.
  - The location of the improvement (an improvement may consist of more than one facility).
  - A description of the assessment district boundaries or a map.

- Requires a petition signed by at least 51% of the acreage that will be assessed to be submitted to the Board before a ROI may be adopted. The petition must include:
  - A description of the boundaries of the proposed assessment area.
  - A description and cost estimate of the improvement.
  - A statement that property within the District will be assessed for the cost of the improvement.

- Specifies that before a ROI can be adopted, a preliminary plan, specifications and a cost estimate must be prepared by an engineer and filed with the clerk. The final plan and specifications must be filed before the Board can accept proposals for construction or obtain construction services.

- Requires a notice of intent be sent to each affected property owner. The notice must include a description of the improvement and a statement that property within the District will be assessed for the cost.

- Allows an owner of property that will be assessed to object to the amount charged to the District for an improvement. Outlines specific timelines and requirements for the objection, notice and hearings.

- Allows the Board to modify the assessment district to remove the objector's property if it is determined that it will not benefit from the improvement. If it is determined that other land should be included in the assessment district, a new ROI must be adopted.

- Allows an objector to file a special action with the Superior Court if they do not agree with the Board's decision. If no special action is filed the Board's decision is deemed final and conclusive and no suit of any nature may be brought that contests the action.

- Allows the Board, in the ROI, to order that all or part of the cost of the improvement be paid from a designated fund within the District treasury.

- Specifies that when the amount of the assessment is calculated, monies from the District treasury and monies from other sources will be deducted from the total and the remaining amount will be assessed to the property owners.

Construction of Flood Protection Facilities

- Allows the Board to proceed with construction if:
  - There are no objections filed within the time period specified.
  - Objections filed have been heard and denied, no further action is pending or all actions have been resolved.

- Authorizes the Board to use a sealed or open bidding process. Outlines the timeline and procedures for each type of bidding process.

- Requires performance and payment bonds prior to execution of a contract. Open bids require a bond of at least 10% of the cost of the proposal.

- Allows the Board to use procurement methods outlined in the state procurement code.

- Authorizes the Board to determine whether or not publicly owned property will be included in the assessment district. If the public property is included, the District is responsible for the amount assessed against the property or the District may contract with the entity for payment.

- Requires the District to outline a form for the contract based on the procurement method and include a timeline for completion of the improvement. The Board must also provide notice to property owners that a contract has been awarded.

- Allows an owner of property that will be assessed to object to the contract for the improvement. Outlines specific timelines and requirements for the objection, notice and hearings.

- Allows the Board to adopt administrative rules for supervising construction. The work is required to be conducted under the direction of the Board or an appointed engineer who will be responsible for the project.

- Requires the contractor to file a performance bond and payment bond with the District before finalizing the contract.

- Outlines procedures for the Board to follow if the work is not performed with diligence or if the contractor is unable to continue or perform the work required by the contract.

- Allows a Board member or property owner to file an objection of "substantial completion" to be filed with the clerk. The Board will hold a hearing and make a determination of the status of the work performed by the contractor.

Assessments

- Requires the engineer to prepare diagrams of the property in the assessment district that will be approved, certified, dated by the Board and filed in the District office.

- Specifies that the assessment amount must cover the cost of the improvement according to the contract, including certain incidental expenses. The amount of the property assessments will be based on the degree of benefit to each parcel.

- Allows property to be sold for delinquent flood protection district assessments and outlines the process regarding liens.

- Establishes the assessment as a first lien on property subject to assessment.

- Outlines a process for liens deemed invalid by the court.

- Outlines the information that must be included in the assessment and the attached warrant signed by the President of the Board.

- Requires information related to the assessment be recorded with the District office. The information may also be filed with the County Recorder.

- Outlines payment, record keeping, notice and objection procedures regarding assessments.

- Authorizes the Board to recalculate the assessment based on a contractor's failure to perform. If the total assessment amount decreases, the District will credit the property owners in the assessment district.

- Allows the District to take action against a property owner who fails to pay the assessment.

- Allows a person to request a modification or correction of an assessment. The Board may amend the assessment diagram or assessment amount.

- Establishes a procedure for the District to adjust the assessment if all or part of the assessment is declared void.

- Allows for reallocation of assessments for property that is located within the District and is exchanged with the state or federal government.

Improvement Bonds

- Authorizes the Board to issue improvement bonds for the cost of the facility. The bonds will be issued in the name of the District.

- Requires monies collected from the special assessment to be placed in the special fund and limits the special fund's use to repayment of improvement bonds.

- Outlines the following procedures for bonding (similar information must also be included in the ROI and other notices):
    - Notice requirements.
    - Limits on the amount that can be issued.
    - Sale of bonds (public or private).
    - Form of bonds.
    - Repayment procedures and requirements.
    - Refunding bonds.

- Allows the Board to establish a reserve fund consisting of monies from the sale of the bonds. The monies in the reserve fund may only be used to pay deficits or final payments

- Authorizes the Board to sell bond anticipation notes. The notes are limited to no more than 90% of the total cost, including incidental expenses, interest and fees.

Miscellaneous

- Contains a definition section.

- Makes technical and conforming changes.

HOUSE OF REPRESENTATIVES

SB 1297

state telecommunications program; exemption
Sponsors: Senators Flake, Arzberger

DP Committee on Water and Agriculture

X Caucus and COW

House Engrossed

SB 1297 removes the Cotton Research and Protection Council from the requirement to enter into a telecommunication service contract through the state's Telecommunications Program Office.

History

The Cotton Research and Protection Council (Council) was established by the Legislature in 1984 to support and further Arizona's cotton and agricultural industries, cotton research activities and pest eradication programs (Laws 1984, Chapter 249 § 2). The Council consists of nine members appointed by the Governor to three year terms. Members of the Council are active cotton producers and are appointed as follows: two residents from Maricopa County, Pinal County and the Yuma, La Paz and Mohave Counties area and one resident from Pima County, Cochise County and the Graham and Greenlee Counties area. The Council is funded through an annual assessment of each bale of cotton produced in Arizona.

The Telecommunications Program Office (Office) within the Arizona Department of Administration (ADOA) oversees the statewide telecommunications network called *AZNet.* State agencies, departments and offices enter into a contract through the Office for their telecommunication needs, including the installation and maintenance of telecommunications systems. The Office also is charged with ensuring that its contractor acts as Arizona's agent for all telecommunication services to the agencies, departments and offices within *AZNet.* Each agency, department and office pays a proportionate cost to ADOA for the administration of the Office.

Provisions

- Exempts the Cotton Research and Protection Council from the state's telecommunication service contract requirements.

HOUSE OF REPRESENTATIVES

SB 1380

drought emergency groundwater transfers
Sponsors: Senators Arzberger, Hale, Miranda, et al

DP Committee on Water and Agriculture

X Caucus and COW

House Engrossed

SB 1380 allows groundwater to be transported away from a groundwater basin that is outside an active management area (AMA) under specific emergency circumstances and on a temporary basis.

History

Groundwater use in Arizona is subject to regulation according to the state groundwater management code. Under current law, transportation of groundwater away from a groundwater basin is generally prohibited. However, there are several exceptions to this prohibition which include transportation of groundwater within a sub basin (or within a groundwater basin if there are no sub basins) without payment of damages or between sub basins of a groundwater basin, subject to payment of damages (ARS Title 45, Chapter 2, Articles 8 and 8.1).

SB 1380 allows groundwater to be transported to another basin if certain conditions are met. Similar legislation was passed in 2000 (Laws 2000, Chapter 205), 2003 (Laws 2003, Chapter 248), 2006 (Laws 2006, Chapter 97) and 2007 (Laws 2007, Chapter 149).

Provisions

- Provides an exemption during drought emergencies from the current law that prohibits transporting groundwater away from a groundwater basin.
- Requires the Director of the Department of Water Resources (Director) to approve a request to transport groundwater away from a groundwater basin that is outside an AMA if all the following apply:
  - the Governor declared an emergency due to lack of precipitation or a water shortage;
  - the groundwater will be withdrawn from an existing well;
  - a city or town has consented to the groundwater withdrawal if the well is located within the incorporated area of the city or town;
  - the county has consented to the groundwater withdrawal if the well is located within the county and the groundwater is to be transported outside of the county;
  - the district has consented to the withdrawal if the groundwater is withdrawn from within the boundaries of an Agricultural Improvement District or an Irrigation and Water Conservation District established pursuant to Title 48, ARS;
  - the groundwater will be moved only by motor vehicle or train;

  - the groundwater is necessary to provide supplies for domestic, stock watering or potable municipal water service purposes;
  - the water will be transported to a location included in the emergency declaration;
  - the county, city or town receiving the water has implemented an emergency conservation plan;
  - the water will not be used in an AMA.
- Limits transportation of groundwater to six months or until the Director determines that the groundwater transportation is no longer necessary. The Director may extend the request for an additional six months. Upon revocation or expiration of approval, the transportation of the groundwater must stop.
- Requires the Director to approve or deny a request within thirty days of receipt of the request. This thirty day time frame is utilized instead of the licensing time frames established by agency rule.
- Stipulates that transfer of groundwater away from a basin outside an AMA is subject to the payment of damages.
- Prohibits transportation of groundwater if it will be used to subsidize insufficient supplies due to continued growth or deficient base water supplies.
- States that this act is intended to provide interim water for true emergencies.
- Contains a retroactive effective date of May 1, 2008.
- Establishes a delayed repeal date of May 1, 2009.

HOUSE OF REPRESENTATIVES

SB 1189

private historic cemeteries; historic preservation
Sponsors: Senator Gray C

DP Committee on Ways and Means

X Caucus and COW

House Engrossed

SB 1189 creates requirements for the State Historic Preservation Officer concerning historic private burial sites and historic private cemeteries and clarifies the exemption for such burial sites and cemeteries from property tax assessments.

History

The State of Arizona has cemeteries that date back to its early settlement. Cemeteries are a source of historical and genealogical information, including social relationships, causes of death, life expectancies and heritage. Cemeteries can be owned by the state, an organization or a private individual and need not be open to the public. Current Arizona law does not require sellers to disclose to a buyer whether or not the property contains human remains or human burial grounds.

Laws 2000, Chapter 258, along with SCR 1010 that was approved by the voters, exempted from property tax all cemeteries that inter deceased human beings. Prior to this law, only nonprofit cemeteries were exempt from property tax. As a result of this law, the owner of the cemetery property is required to file a one-time affidavit with the county assessor's office to claim the exemption. The owners of the cemetery are only required to file another affidavit if they sell, rezone or change the use of the property. Cemetery property is defined in statute to include: a burial park, mausoleums, crematories and columbariums, and cemetery plots for burial purposes.

The State Historic Preservation Office (SHPO), a division of Arizona State Parks, is responsible for the identification, evaluation and protection of Arizona's prehistoric and historic cultural resources. The SHPO staff represents various areas of expertise, including history, prehistoric and historic archaeology, historical architecture and grants management. The programs and services provided by this staff are diverse and meet a range of needs within the public and private sectors of Arizona. The State Historic Preservation Officer is responsible for the operation and management of the SHPO.

Provisions

- Requires the State Historic Preservation Officer to carry out the following for historic private burial sites and historic private cemeteries:
  - survey and maintain inventories.
  - make information available concerning preservation.
  - make recommendations on certification, classification and eligibility for property tax and investment tax incentives.

- Allows the State Historic Preservation Officer to do the following for historic private burial sites and historic private cemeteries:
  - collect and receive information from public and private sources and maintain a record of the existence and location of the burial site.
  - assist and advise property owners of the availability of tax exemptions.
  - make records available to assist in locating the families of the buried persons.
- Clarifies that historic private burial sites and historic private cemeteries are exempt from property tax assessments.
- Defines *historic private burial site* and *historic private cemetery* as a place where burial or interments of human remains first occurred more than 50 years ago, are not available for burials or interments by the public and are not regulated under the Department of Real Estate.